



Montgomery County Maryland

THE
MEETING TRANSCRIPT
OF THE
COUNTY COUNCIL

The Meeting Transcript of The Montgomery County Council



April 12, 2005

TRANSCRIPT

-- April 12, 2005 --

MONTGOMERY COUNTY COUNCIL

PRESENT

Thomas Perez, President
Phil Andrews
Howard Denis
Marilyn J. Praisner

George Leventhal, Vice President
Michael Knapp
Nancy Floreen
Steven A. Silverman

Michael Subin

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1 ### Morning Session ###

2

3 **COUNCILMEMBER LEVENTHAL:** LADIES AND GENTLEMEN, WE'RE GOING TO
4 COMMENCE. THE COUNCIL PRESIDENT WILL BE HERE SHORTLY. LET'S
5 RISE PLEASE FOR AN INVOCATION BY IMAM DAUD AHMAD HANIF OF THE
6 AMADJIA MOSQUE IN SILVER SPRING.

7

8 **IMAM HANIF:** THANK YOU. [SPEAKS ARIBAIC] IN THE NAME OF ALLAH,
9 THE GRACIOUS, THE MERCIFUL. ALL PRAISE BELONGS TO ALLAH ALONE,
10 LORD OF ALL THE WORLDS, THE GRACIOUS, THE MERCIFUL, THE MASTER
11 OF THE DAY OF JUDGMENT, HE ALONE WHO WE WORSHIP AND HE ALONE
12 WHO WE IMPORE FOR HELP. GUIDE US IN THE STRAIGHT PATH, THE
13 PATH OF THOSE ON WHOM THOU HAS BESTOWED THY FAVORS, THOSE WHO
14 HAVE NOT ENTERED THY DISPLEASURE AND THOSE WHO HAVE NOT GONE
15 ASTRAY AND [INAUDIBLE] BELIEVES IN THAT WHICH HAD BEEN
16 REVEALED TO HIM FROM HIS LORD AND SO DO THE BELIEVERS. ALL OF
17 THEM BELIEVE IN ALLAH AND IN HIS ANGELS AND IN HIS BOOKS AND
18 IN HIS MESSENGERS, SAYING WE MAKE NO DISTINCTION BETWEEN ANY
19 OF HIS MESSENGERS AND THEY SAY WE HAVE HEARD AND WE ARE
20 OBEDIENT, OUR LORD. WE IMPORE THY FORGIVENESS AND TO THEE IS
21 THE RETURNING. ALLAH BURDENS NOT ANY SOUL BEYOND ITS CAPACITY.
22 IT SHALL HAVE THE WORLD RETURNED AND IT SHALL GET THE
23 PUNISHMENT IT INCURS. OH LORD, DO NOT PUNISH US IF WE FORGET
24 OR FALL INTO ERROR. AND OH LORD, LEAN NOT ON US A
25 RESPONSIBILITY AS THOU DIDST LAY UPON THOSE BEFORE US. OH LORD,

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1 BURDEN US NOT WITH WHAT WE HAVE NOT THE STRENGTH TO BEAR AND
2 ERASE OUR SINS AND GRANT US FORGIVENESS AND HAVE MERCY ON US.
3 THOU ART THE MASTER. OH, LORD, GRANT US GOOD IN THIS WORLD AS
4 GOOD IN THE WORLD TO COME AND SAVE US FROM THE TORMENT OF FIRE.
5 OH LORD, THERE IS NONE WHO CAN BUY YOUR BOUNTIES AND NOR IS
6 THERE ANYONE WHO CAN GRANT THAT WITH YOU, WITH THE WORLD. WE
7 BESEECH YOU LORD, THAT ENABLE US ALL AND THE SERVANTS OF THE
8 COUNTY TO SERVE THE PEOPLE OF THIS COUNTY AND THE COUNTRY IN
9 THE BEST POSSIBLE MANNER. AND ALLAH, MAKE THIS COUNTY OF OURS
10 A BEAUTIFUL COUNTY AND GRANT ITS [INAUDIBLE] AND RESIDENTS ALL
11 THE AFOREMENTIONED BOUNTIES AND FAVORS IN ABUNDANCE AND REMAIN
12 OUR PROTECTOR AND GUIDE ALWAYS. AMEN

13

14 **COUNCILMEMBER LEVANTHAL:** AMEN. THANK YOU, IMAM. NEXT WE WILL
15 HAVE THE AWARD PRESENTATION FOR THE GOLDEN SHOVEL PROGRAM BY
16 COUNCILMEMBER FLOREEN.

17

18 **COUNCILMEMBER FLOREEN:** INCREDIBLE AS IT MAY SEEM, AS WE
19 WELCOME THE FIRST PERFECT WEEK OF SPRING, I WANT YOU ALL TO
20 REMEMBER THAT WE FIGURED OUT WE GOT ABOUT 20 INCHES OF SNOW
21 THIS WINTER AND WE'VE HAD A TREMENDOUS RESPONSE TO AN
22 INVITATION TO COMMUNITIES TO NOMINATE REALLY HEROES, FOLKS WHO
23 HAVE LOOKED OUT FOR THEM AND FOLKS WHO HAVE DONE SHOVELING FOR
24 THEM. IN A COUNTY THAT'S COMMITTED TO PEDESTRIAN SAFETY AND
25 FRANKLY TO THE STRENGTH AND DEPTH OF OUR COMMUNITIES, I THINK

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1 THIS IS A REAL CELEBRATION OF WHAT WE ARE TO EACH OTHER. THE
2 RULES THAT WE ENACT ON A REGULAR BASIS ARE ONE THING, BUT THE
3 VOLUNTARY OUTPOURING OF AFFECTION, EFFORT, AND CARING FOR EACH
4 OTHER THAT THIS LITTLE PROGRAM HAS ELICITED IS REALLY A VERY
5 IMPRESSIVE THING. AND I WANT TO THANK ALL THE FOLKS WHO HAVE
6 MADE NOMINATIONS AND GIVEN US NAMES OF FOLKS WHO HAVE HELPED
7 THEM OUT AND TO THOSE PEOPLE WHO SURVIVED THE RIGOROUS REVIEW
8 PROCESS. AND I WOULD LIKE TO SAY WE STARTED THIS TWO YEARS AGO.
9 THIS YEAR WE'RE RECOGNIZING 15 RESIDENTS WHO PUT THE GOLDEN
10 RULE TO WORK WITH THEIR SHOVELS. ONE OF OUR GOLDEN SHOVELERS,
11 MICHAEL HUFFMAN, HAS BEEN CLEARING THE SIDEWALKS AND HIS
12 CORNER LOT AND SHOVELING A PATH FOR THE NEIGHBORHOOD CHILDREN
13 TO GET TO SCHOOL AS WELL. MICHAEL HAS BEEN DOING THIS WINTER
14 IN AND WINTER OUT FOR 35 YEARS. [APPLAUSE] AND BEFORE WE GO
15 ANY FURTHER LET ME ASK THE FOLKS WHO KNOW THEY ARE GOING TO
16 RECEIVE THE AWARD TO JOIN ME AS I RECITE SOME OF YOUR GREAT
17 ACHIEVEMENTS HERE. I KNOW EVERYBODY COULDN'T MAKE IT, BUT HALF
18 THE PEOPLE IN THIS ROOM ARE THE ADVOCATES AND FRIENDS OF THEIR
19 NEIGHBORS AND I THINK THIS REALLY SAYS SOMETHING, THAT THEY'RE
20 HERE AND THEY'VE TAKEN THE TIME OUT OF THEIR BUSY LIVES TO
21 RECOGNIZE THEIR FRIENDS AND, REALLY, THEIR COMMUNITY. JOHN AND
22 EVELYN JEMIACK, DID I GET THAT RIGHT?

23
24 **SPEAKER:** JEMIONECK.
25

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1 **COUNCILMEMBER FLOREEN:** JEMIONECK. HAVE BEEN SHOVELING THE
2 SIDEWALKS, DRIVEWAYS AND THE STREET FOR THEIR NEIGHBORS FOR
3 MANY YEARS. TWO OF THEIR NEIGHBORHOODS NOMINATED THEM. WE'VE
4 ALSO GOT SOME YOUNG PEOPLE. WE HAVE 13-YEAR-OLD MATT COLLINS
5 AND RICHARD MONTGOMERY STUDENT SELORM KUMAH. WE'VE GOT
6 GUARDIAN ANGELS LIKE JOE HENNETT AND MORRIS GIBSON OF
7 MONTGOMERY VILLAGE AND HAP BUTZ OF BOYDS. I HEARD OF SOMEONE
8 ELSE THIS MORNING WHO'S BEEN DOING THIS FOR 22 YEARS. YOU KNOW,
9 YOUR COMMUNITY SPIRIT IS BREATH-TAKING, THAT YOU HAVE MADE
10 THESE CONNECTIONS AND MADE OUR COMMUNITY STRONGER BY
11 CONTRIBUTING YOUR HARD WORK TO THEM IS A REAL STATEMENT AND WE
12 ARE SO GRATEFUL. WE'D ALSO LIKE TO THANK BILL SCHLAUSSENBERG
13 AND ALL HIS COLLEAGUES AT THE GAZETTE. THEY'VE HELPED US
14 PUBLICIZE THIS. EVERYONE IS READING THE GAZETTE, BILL, BECAUSE
15 WE GOT THESE NOMINATIONS AND I THINK IT'S A REAL CELEBRATION
16 OF COMMUNITY THAT WE'RE PRIVILEGED TO BE A PART OF TODAY. SO,
17 AND LET ME -- WE ALSO HAVE SHEAN HEAVEY FROM MCKINNEY HILLS,
18 WHO HAS BEEN A TREMENDOUS RESOURCE AS WELL, SO LET ME JUST
19 HAND THESE OUT. AND I'M NOT SURE IF EVERYONE IS HERE, BUT WE
20 ALSO, WE HAVE THIS NICE, LITTLE CERTIFICATE AND AN OFFICIAL
21 GOLDEN SHOVEL THAT I KNOW YOU WILL APPRECIATE. ROBIN ASSELIN.
22 IS ROBIN HERE?

23
24 **SPEAKER:** SHE'S SUPPOSED TO BE.
25

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1 **COUNCILMEMBER FLOREEN:** YEAH. STEVE BUTLER. THANK YOU.

2

3 **STEVE BUTLER:** THANK YOU.

4

5 **COUNCILMEMBER FLOREEN:** THANK YOU VERY MUCH, STEVE. OH, AND

6 HERE'S YOUR SHOVEL. THESE ARE -- CAREFUL BUDGET TIMES. WE'RE

7 TRYING TO KEEP OUR PRIORITIES WHERE THEY SHOULD BE. HAP BUTZ.

8 YOU'RE HERE HAP. ALL THE WAY FROM BOYDS. THIS IS AN ALL-COUNTY

9 EFFORT. THANK YOU VERY MUCH, HAP. [APPLAUSE] LET'S SEE HERE.

10 MATT COLLINS. WAY TO GO, MATT. AND YOU'VE GOT A FAMILY MEMBER

11 HERE THAT YOU'RE TRAINING HOW TO DO THIS AS WELL, RIGHT?

12

13 **MATT COLLINS:** YES.

14

15 **COUNCILMEMBER FLOREEN:** AND MAYBE LUNCH IS IN STORE FOR YOU.

16 THANK YOU, MATT.

17

18 **MATT COLLINS:** THANK YOU.

19

20 **COUNCILMEMBER FLOREEN:** LET'S SEE HERE. ANDREW FINN? [APPLAUSE]

21 I UNDERSTAND YOU'VE BEEN TRAVELING DISTANCE FOR YEARS TO TAKE

22 CARE OF YOUR NEIGHBORHOOD AND YOUR PARENTS.

23

24 **ANDREW FINN:** YES, I HAVE.

25

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1 **COUNCILMEMBER FLOREEN:** THANK YOU.

2

3 **ANDREW FINN:** THANK YOU.

4

5 **COUNCILMEMBER FLOREEN:** LET'S SEE HERE. JOHAN, JOHNNETTA MARS
6 GIBSON. [APPLAUSE] THANK YOU. WAY TO GO.

7

8 **JOHNETTA GIBSON:** THANKS.

9

10 **COUNCILMEMBER FLOREEN:** LET'S SEE HERE. SHEAN HEAVEY. THANK YOU
11 SO MUCH. YOU'RE A GREAT EXAMPLE. MICHAEL HUFFMAN? [APPLAUSE]
12 THIS IS A 35-YEAR PIN. [LAUGHTER] JOHN AND EVELYN JEMIONECK.
13 [APPLAUSE] WE'LL GIVE YOU TWO PINS AND PLEASE CONVEY OUR
14 APPRECIATION TO YOUR HUSBAND AS WELL.

15

16 **EVELYN JEMIONECK:** I WILL.

17

18 **COUNCILMEMBER FLOREEN:** THANK YOU. JOHN KEISER. [APPLAUSE] I
19 THINK JOHN MAY HAVE THE BIGGEST FAN TEAM HERE. LET'S HEAR IT
20 FOR THE NEIGHBORHOOD. SELORM KUMAH, NOT HERE? MICHAEL LINDER.
21 [APPLAUSE] A SEVERAL YEAR NOMINEE, FINALLY MADE IT TO THE TOP.
22 [LAUGHTER] ELIZABETH SCOTT?

23

24 **SPEAKER:** SHE'S HERE, JUST COMING.

25

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1 **COUNCILMEMBER FLOREEN:** SHE'S COMING? GOOD TIMING. THERE YOU GO.
2 THANK YOU. HERE YOU GO. THANK YOU.

3

4 **ELIZABETH SCOTT:** THANK YOU.

5

6 **COUNCILMEMBER FLOREEN:** LET'S SEE HERE. RICHARD SHELLY. NOT
7 HERE? AND WILLIAM TOLEDO.

8

9 **WILLIAM TOLEDO:** YES.

10

11 **COUNCILMEMBER FLOREEN:** WE'VE GOT, THIS IS THE 22-YEAR PIN. AND
12 THANK YOU FOR BRINGING YOUR GRANDDAUGHTER. I KNOW SHE'LL BE
13 FOLLOWING IN YOUR SHOVELING STEPS.

14

15 **WILLIAM TOLEDO:** I WILL PUSH HER THAT WAY. I WILL PUSH HER.

16

17 **COUNCILMEMBER FLOREEN:** WHEN WE DO THIS WE USUALLY GIVE FOLKS A
18 MINUTE OR SO IF THEY WOULD LIKE TO SAY ANYTHING. IF ANYONE
19 HERE WOULD LIKE TO MAKE A COMMENT, WE'D LOVE TO HEAR FROM YOU.
20 YES?

21

22 **STEVE BUTLER:** YEAH, I'D LIKE TO RECOGNIZE NANCY HADLEY, ONE OF
23 OUR OWNERS AT BETHESDA PARK WHO NOMINATED ME AND ALSO A
24 SPECIAL THANKS TO PAUL AMBROGY. HE IS THE DIRECTOR OF

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1 MARKETING AND SALES OF OUR SNOW REMOVAL CONTRACTOR, A.W.
2 LANDSCAPES OUT OF ROCKVILLE, MARYLAND.

3

4 **COUNCILMEMBER FLOREEN:** OKAY. A GOOD COMMERCIAL PLUG.

5 [APPLAUSE] AS I SAID BEFORE, WE'RE GRATEFUL TO SO MANY OF YOU
6 WHO HAVE MADE THIS EFFORT TO RECOGNIZE THEIR FRIENDS AND
7 NEIGHBORS. SIR?

8

9 **JOHN KEISER:** I'D LIKE TO --

10

11 **COUNCILMEMBER FLOREEN:** IF YOU USE THE MIC.

12

13 **JOHN KEISER:** WOULD I LIKE TO ACCEPT THIS AWARD IN HONOR OF ONE
14 OF OUR NEIGHBORS, MR. BARRETT WEAVER, WHO PASSED AWAY THIS
15 PAST YEAR. WE CALLED HIM THE MAYOR OF JAMAICA DRIVE AND SET
16 THE TONE FOR THE NEIGHBOR TO NEIGHBOR POLICY IN OUR
17 NEIGHBORHOOD. [APPLAUSE]

18

19 **COUNCILMEMBER FLOREEN:** YES?

20

21 **ELIZABETH SCOTT:** GOOD MORNING EVERYONE. I'M ELIZABETH SCOTT I
22 AM FROM CLAPP HILL IN MONTGOMERY VILLAGE SECTOR. AND I'VE BEEN
23 THERE FOR FIVE YEARS SO, IT'S GOOD TO KNOW THAT PEOPLE
24 RECOGNIZE YOUR EFFORTS. I AM NOT HERE FOR YOU TO SAY, OH, SHE
25 DID THIS AND DID THAT BUT I'M HERE TO REPRESENT THAT YOU CAN

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1 BE A GOOD NEIGHBOR AND I'M A GOOD POLICY STARTER IN OUR
2 NEIGHBORHOOD. SO THANK YOU AGAIN FOR RECOGNIZING ME.

3

4 **JOHNNETTA GIBSON:** HI. I'M JOHNNETTA MARS GIBSON. I MOVED TO
5 MONTGOMERY VILLAGE ABOUT THREE YEARS AGO AND I JUST WOULD LIKE
6 TO THANK CAROLYN HAVERMAN AND DAVEY FOR BEING SO NICE
7 RECOGNIZING ME FOR THIS AWARD. AND ESPECIALLY I WOULD LIKE TO
8 THANK MY SON. HE'S THREE AND A HALF YEARS SO HE'S MY ASSISTANT
9 [LAUGHTER] AND MY MOM. SHE'S ALWAYS OUT THERE SHOVELING AND
10 HELPING ME OUT AND HELPING THE NEIGHBORS OUT. AND JUST TO LET
11 EVERYBODY KNOW THAT YOUNG PEOPLE CAN HELP OLDER PEOPLE OUT. IT
12 DOESN'T HAVE TO BE LIKE YOU HAVE TO BE ASKED. JUST REMEMBER, A
13 GOOD NEIGHBOR CAN BE YOU, TOO. [APPLAUSE]

14

15 **WILLIAM TOLEDO:** I WANT TO THANK THE SNOW. [LAUGHTER] I WOULD
16 NOT BE HERE WITHOUT THE SNOW. SO, FOR THOSE WHO HATE IT, I
17 LOVE IT.

18

19 **COUNCILMEMBER FLOREEN:** ANYBODY ELSE? WELL, NOW IS THE TIME FOR
20 THE CEREMONIAL GROUP PHOTOS SO WHY DON'T WE CLOSE UP THE GAP
21 HERE A LITTLE BIT.

22

23 **PHOTOGRAPHER:** FORM TWO LINES.

24

25 **COUNCILMEMBER FLOREEN:** YEAH. THE SHORTER FOLKS --

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1

2 **SPEAKER:** OH, THANK YOU. [LAUGHTER]

3

4 **SPEAKER:** YOU ACTUALLY HAVE SPECIAL SHOVELS.

5

6 **COUNCILMEMBER FLOREEN:** THIS IS OUR COMMUNITY. THANK YOU.

7

8 **PHOTOGRAPHER:** OKAY, YOU HAVE TO MOVE OVER A LITTLE BIT.

9

10 **PHOTOGRAPHER:** AND LET ME GET ONE ON [INAUDIBLE]. THANK YOU

11

12 **COUNCILMEMBER FLOREEN:** OKAY. WE'LL CHECK C.N.N. FOR THEM

13

14 **PHOTOGRAPHER:** YES.

15

16 **COUNCILMEMBER FLOREE:** THANK YOU. THANK YOU.

17

18 **SPEAKER:** THANK YOU SO MUCH, NANCY.

19

20 **COUNCILMEMBER FLOREEN:** THANK YOU SO MUCH.

21

22 **SPEAKER:** GOOD JOB. THANK YOU.

23

24 **COUNCILMEMBER DENIS:** THEY DIDN'T CHANGE THE PRIMARY, DID THEY?

25

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1 **COUNCILMEMBER KNAPP:** NO.

2

3 **COUNCILMEMBER DENIS:** DID THEY CHANGE THE PRIMARY?

4

5 **COUNCILMEMBER PRAISNER:** I DON'T THINK SO.

6

7 **COUNCILMEMBER KNAPP:** THE HOUSE DIDN'T GO ALONG. [CONVERSATION
8 OFF MIKE]

9

10 **COUNCILMEMBER PEREZ:** OKAY. THE OTHER ONE WAS DEFERRED SO WE'RE
11 ONTO GENERAL BUSINESS. MS. LAUER, AGENDA AND CALENDAR CHANGES.

12

13 **LINDA LAUER:** WE JUST HAD THE ONE ANNOUNCEMENT, IS TO NOTIFY
14 EVERYONE THAT THE PUBLIC HEARING ON THE FY06 CAPITAL BUDGET
15 AND C.I.P. AMENDMENTS FOR THE MONTGOMERY COUNTY PUBLIC SCHOOLS
16 IS SCHEDULED FOR MAY 3RD At 7:00 P.M. THANK YOU.

17

18 **COUNCILMEMBER PEREZ:** OKAY. MADAM CLERK APPROVAL OF MINUTES?
19 ANY MINUTES FOR APPROVAL?

20

21 **ELDA DODSON:** YOU HAVE THE MINUTES OF MARCH 14TH, 15TH, AND
22 22ND FOR APPROVAL.

23

24 **COUNCILMEMBER PEREZ:** MOVED AND SECONDED. ALL THOSE IN FAVOR
25 SIGNIFY BY RAISING YOUR HANDS. UNANIMOUS AMONG THOSE PRESENT.

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1 NO PETITIONS, SO LET'S MOVE TO THE CONSENT CALENDAR.

2 [INAUDIBLE] MOVED AND SECONDED AND I SEE NO LIGHTS. OH! MR.

3 KNAPP? YES? I SHOULD HAVE SAID IT FASTER.

4

5 **COUNCILMEMBER KNAPP:** SORRY. I WAS A LITTLE SLOW THIS MORNING.

6 NO, I JUST HAD A QUESTION ON ITEM G, WHICH IS THE NON-

7 COMPETITIVE AWARD STATUS. FOLLOWING THE O.L.O. PRESENTATION

8 THAT WE HAD EARLIER THIS YEAR I DIDN'T KNOW AND I WAS JUST

9 KIND OF CURIOUS AS TO WHAT PROCESS THESE THINGS UNDERGO TO GET
10 ON THIS LIST.

11

12 **SPEAKER:** THESE AMENDMENTS ARE ACTUALLY, REALLY REFLECT

13 TECHNICAL CHANGES THAT NEED TO BE MADE TO THE APPROVED BUDGET

14 FOR FY05.

15

16 **COUNCILMEMBER KNAPP:** OKAY.

17

18 **SPEAKER:** SO WE ACTUALLY DO HAVE TO AMEND THAT LIST FAIRLY

19 ROUTINELY DURING THE YEAR JUST--

20

21 **COUNCILMEMBER KNAPP:** THAT'S WHAT THIS IS?

22

23 **SPEAKER:** AS SORT OF [INAUDIBLE] COME UP. SO THIS DOESN'T

24 REFLECT ANY SORT OF SUBSTANTIVE CHANGE TO WHETHER THESE HAVE

25 BEEN AUTHORIZED OR NOT AUTHORIZED TO RECEIVE AN AWARD.

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1

2 **COUNCILMEMBER KNAPP:** OKAY. ALL RIGHT.

3

4 **SPEAKER:** THEY WERE ALREADY AUTHORIZED LAST YEAR.

5

6 **COUNCILMEMBER KNAPP:** OKAY.

7

8 **SPEAKER:** THE LARGER PROCESS THAT YOU WERE REFERRING TO IS
9 LARGER.

10

11 **COUNCILMEMBER KNAPP:** FINE. JUST CHECKING. AND THE ONLY OTHER
12 THING I WANT TO DO WAS JUST COMMEND ALL THOSE ON THE, NEW
13 APPOINTEES TO THE AG ADVISORY COMMITTEE AND THANK THEM ALL FOR
14 THEIR WILLINGNESS TO SERVE. CLEARLY, THE ROLE OF AGRICULTURE
15 CONTINUES TO BE SOMETHING WE'VE GOT TO FOCUS A LOT OF
16 ATTENTION ON AND THESE NEW APPOINTEES, I THINK, WILL BRING A
17 LOT TO THE AG ADVISORY COMMITTEE SO I THANK THEM FOR THEIR
18 WILLINGNESS TO SERVE.

19

20 **UNIDENTIFIED SPEAKER:** DO IT RIGHT NOW.

21

22 **COUNCILMEMBER PEREZ:** OKAY. NO OTHER LIGHTS. ALL THOSE IN FAVOR
23 SIGNIFY BY RAISING THEIR HANDS. IT IS UNANIMOUS AMONG THOSE
24 PRESENT. LEGISLATIVE SESSION DAY TEN, APPROVAL OF LEGISLATIVE
25 JOURNAL?

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1

2 **ELDA DODSON:** YOU HAVE THE LEGISLATIVE JOURNAL OF MARCH 22ND
3 FOR APPROVAL.

4

5 **SPEAKER:** MOVE APPROVAL.

6

7 **SPEAKER:** SECOND.

8

9 **COUNCILMEMBER PEREZ:** MOVED AND SECONDED. ALL THOSE IN FAVOR,
10 UNANIMOUS AMONG THOSE PRESENT. INTRODUCTION OF BILLS,
11 EXPEDITED BILL 5-05, LANDLORD TENANT RELATIONS, ATTORNEY'S
12 FEES, BY THE COUNCIL PRESENT AT THE REQUEST OF THE COUNTY
13 EXECUTIVE. A PUBLIC HEARING IS SET FOR JUNE 14TH AT 1:30.
14 BILLS 6-05, 7-05, 8-05, AND 9-05 ARE ALSO SET FOR PUBLIC
15 HEARING AT 1:30 ON JUNE THE 14TH. AND THAT BRINGS US TO -- OH,
16 I'M SORRY. SURE?

17

18 **COUNCILMEMBER PRAISNER:** I JUST WANT TO MAKE A COMMENT ON THE
19 8-05, WHICH IS A NOTICE OF POSTING THAT COMES FROM BOTH THE
20 COUNTY EXECUTIVE AND MYSELF. AS MR. FADEN'S PACKET INDICATES,
21 THIS WILL EXTEND NOTICE OF POSTING THAT APPLIES IN RESIDENTIAL
22 ZONES TO THE AG RESERVE AS WELL, AS I RECALL. AND I ALMOST
23 ALSO INTRODUCING SOME AMENDMENTS, WHICH MR. FADEN MAKES
24 REFERENCE TO, WHEN WE DRAFTED MY LEGISLATION, WHICH I AM NOT
25 GOING TO INTRODUCE BECAUSE THE EXECUTIVE HAS SENT OVER SIMILAR

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1 LEGISLATION. THERE WOULD HAVE BEEN SOME LANGUAGE IN OUR BILL
2 THAT IS NOT INCLUDED WITHIN THE EXECUTIVE'S AND SO WE WILL
3 INTRODUCE THOSE AS AMENDMENTS. THE OTHER ITEM I WANTED TO
4 COMMENT IS BUILDINGS, LOCATION, AND THE COUNTY. THERE WILL
5 ALSO BE, WHEN WE GET TO DISTRICT COUNCIL, THIS ISSUE, AS MY
6 COLLEAGUES KNOW FROM DISCUSSIONS ABOUT LEGISLATION IN
7 ANNAPOLIS, THERE HAVE BEEN CHALLENGES THAT HAVE ARISEN WHEN
8 BUILDINGS HAVE BEEN CONSTRUCTED, BOTH IN PRINCE GEORGE'S AND
9 MONTGOMERY COUNTY. AND COUNCILMEMBER TOM DERNOGA, WHO IS THE
10 COUNCILMEMBER FOR DISTRICT 1 ON THE OTHER SIDE OF THE LINE AND
11 I AM TRYING TO RESPOND TO THIS PROACTIVELY FOR THE FUTURE BY
12 RESTRICTING THE ABILITY OF ANYONE TO CONSTRUCT A FUTURE HOUSE
13 OR BUILDING THAT WOULD BE IN BOTH COUNTIES. SO, THANK YOU.

14
15 **COUNCILMEMBER PEREZ:** A NOBLE VENTURE. OKAY. THAT BRINGS US TO
16 AGENDA ITEM NUMBER 8. COME ON UP. IT'S GREAT TO SEE YOU AGAIN,
17 DR. TIGNOR, ALWAYS A PLEASURE. MR. BEACH, GOOD TO SEE YOU. AND
18 AS ALWAYS, OUR GOOD FRIEND MARC HANSEN AS WELL. IT'S 23-04,
19 CONTRACTS PROCUREMENT, LOCAL SMALL BUSINESS RESERVE PROGRAM.
20 WE WERE, AS YOU SAY, WHEN WE LAST GATHERED WE HAD A NUMBER OF
21 QUESTIONS. WE WERE REVIEWING THE LETTER, OPINION FROM
22 PROFESSOR RASKIN AND WE DIDN'T WANT TO HAVE A VOTE LAST TIME
23 BECAUSE WE HAD JUST GOTTEN THE OPINION THE DAY BEFORE AND WE
24 DIDN'T THINK IT WAS FAIR TO OUR FRIENDS AND COLLEAGUES WHO
25 WERE REVIEWING THE LEGAL OPINION TO HAVE TO RESPOND TO IT WITH

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1 ONLY 24 HOURS' NOTICE. SO, WHAT I WAS GOING TO SUGGEST IS WE
2 CAN, WE GOT THE MEMO FROM THE COUNTY ATTORNEY, WHICH IS AT, I
3 THINK, CIRCLES 118 TO 126, AND WE HAVE THAT, AND I WAS GOING
4 TO GIVE MR. HANSEN AN OPPORTUNITY, IF HE WANTED, TO EXPLAIN
5 THAT FURTHER. THERE ARE SOME ISSUES -- I THINK THAT WE'VE
6 VETTED THESE ISSUES SO I DON'T KNOW THAT WE NEED TO START FROM
7 SCRATCH. I THINK PEOPLE UNDERSTAND WHAT IS LEFT. THERE WAS,
8 BASICALLY, THERE'S A MOTION THAT WAS EFFECTIVELY ON THE TABLE
9 FROM MR. LEVENTHAL. I'LL ALLOW HIM TO, BEFORE I TURN TO YOU,
10 MARC, PERHAPS I'LL TURN TO MR. LEVENTHAL SO THAT HE CAN
11 REFRESH OUR MEMORY ON WHAT THE MOTION THAT HE IS OFFERING IS
12 ON THE TABLE. AND FROM THERE LET'S GO TO, WE'LL GO TO OUR
13 FRIENDS IN THE COUNTY ATTORNEY AND COUNTY EXECUTIVE. SO, MR.
14 LEVENTHAL.

15
16 **COUNCILMEMBER LEVENTHAL:** THANK YOU, MR. PRESIDENT. WHAT THE
17 MOTION WOULD SIMPLY DO IS TO PUT THE WORD "LOCAL" BACK IN
18 WHERE THE MANAGEMENT AND FISCAL POLICY COMMITTEE HAD DELETED
19 IT THROUGHOUT THE BILL. THERE ARE, AND I HAVE READ THE COUNTY
20 ATTORNEY'S MEMO. I STILL AM WAITING FOR A BUSINESS THAT IS
21 CONCERNED ABOUT LOSING ITS BUSINESS IN VIRGINIA TO CONTACT US
22 AND URGE US NOT TO PASS THIS BILL. WE HAVE NOT HEARD FROM ANY
23 SUCH BUSINESS AND, TO THE CONTRARY, WE'VE HEARD FROM MANY,
24 MANY, MANY, MONTGOMERY COUNTY BASED BUSINESSES IN SUPPORT OF
25 THE LOCAL DEFINITION IN THE SET ASIDE. SO, JUST BASED ON THOSE

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1 INDIVIDUALS WHO MIGHT BE AGGRIEVED, THEY MAY WELL BE OUT THERE
2 AND THEY MAY WELL BE LITIGIOUS BUT THEY SURE HAVEN'T CONTACTED
3 US IN ADVANCE OF THE PASSAGE OF THE BILL. WE'VE HEARD FROM NO
4 SUCH BUSINESS. THERE ARE REPRESENTATIVES HERE OF THE
5 MONTGOMERY COUNTY CHAMBER AND THE BETHESDA-CHEVY CHASE CHAMBER
6 AND I DON'T BELIEVE EITHER OF THOSE CHAMBERS HAVE BEEN
7 CONTACTED BY ANY OF THEIR MEMBERS EXPRESSING A CONCERN ABOUT
8 LOSING BUSINESS IN THE STATE OF VIRGINIA AS A RESULT OF
9 ENACTMENT OF THIS BILL. IN FACT, TO THE CONTRARY, UNLESS I'M
10 WRONG THEY CAN NOD IF THE ANSWER IS YES. BOTH OF THE CHAMBERS
11 REPRESENTED HERE TODAY STRONGLY SUPPORT THE LOCAL SMALL
12 BUSINESS RESERVE AND HAVE URGED US REPEATEDLY AND THEIR
13 MEMBERS HAVE URGED US TO PASS IT AS A LOCAL PROGRAM. SO I HOPE
14 THE COUNCIL WILL DO THAT. AFTER WE'VE DISPOSED OF MY AMENDMENT
15 I DO THINK WE SHOULD DISCUSS THE COUNTY ATTORNEY'S SUGGESTION
16 AND I'M OPEN TO IT. BUT I WANT TO DISCUSS IT A LITTLE FURTHER
17 AS TO THE DEFINITION OF WHAT CONSTITUTES LOCAL AND WHETHER
18 THAT OUGHT TO BE DETERMINED IN REGS. I HAVE AN OPEN MIND ON
19 THAT QUESTION AND I'M HAPPY TO DISCUSS IT. ANOTHER ISSUE THAT
20 I SHOULD, YOU KNOW, WE'VE ALL BEEN SO BUSY WITH BUDGET
21 HEARINGS AND EVERYTHING, I SHOULD HAVE ASKED STAFF TO PREPARE
22 FOR US FOR TODAY BUT I KNOW WE'VE BEEN THINKING ABOUT IT, AND
23 THAT IS THE QUESTION OF CONTRACTS WITH NON-PROFIT
24 ORGANIZATIONS. THERE IS A CONCERN REGARDING THE ABILITY OF THE
25 HEALTH AND HUMAN SERVICES DEPARTMENT, IN PARTICULAR, TO COMPLY

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1 WITH THIS BECAUSE SO MANY OF THEIR CONTRACTS ARE ON THE NON-
2 COMPETITIVE LIST. AND ALTHOUGH MOST OF THE RECIPIENTS OF THOSE
3 CONTRACTS ARE BASED IN MONTGOMERY COUNTY, THERE MAY BE SOME
4 SPECIFIC ISSUES, THEY MAY OR MAY NOT BE SMALL DEPENDING ON HOW
5 IT'S DEFINED. THERE ARE SOME ISSUES THERE THAT WE MAY ALSO
6 WANT TO LOOK AT. NOW, IT MAY BE THAT BY, IF WE TAKE THE -- I'M
7 GETTING OFF OF THE ISSUE OF LOCAL NOW -- BUT IT MAY BE THAT IF
8 WE TAKE THE SUGGESTION FROM THE COUNTY ATTORNEY WITH RESPECT
9 TO DEFINING THE BUSINESS IN REGS WE MIGHT ALSO DEFINE THE
10 APPLICATION OF THE RESERVE TO NON-PROFIT CONTRACTS IN REGS AS
11 WELL. BUT THAT'S SOMETHING THAT BEARS DISCUSSION ALSO. BUT I
12 GUESS THE CHAIR OF THE M.F.P. COMMITTEE HAS SOME THOUGHTS ON
13 THAT. BUT IN ANY EVENT, MY MOTION IS SIMPLY TO REPLACE THE
14 WORD "LOCAL" EVERYWHERE IN THE BILL WHERE IT HAD BEEN TAKEN
15 OUT BY THE M.F.P. COMMITTEE.

16
17 **COUNCILMEMBER PEREZ:** WE'LL GO TO MS. PRAISNER AS THE CHAIR OF
18 THE COMMITTEE AND THEN MR. ANDREWS. AND THEN WE'LL TURN IT
19 OVER.

20
21 **COUNCILMEMBER PRAISNER:** THANK YOU. I THINK CERTAINLY THE
22 COUNTY ATTORNEY OPINION AND THE INFORMATION THAT MR. ROYALTY
23 ADDED TO IT IS GOING TO BE READ DIFFERENT WAYS BY DIFFERENT
24 PEOPLE, DEPENDING UPON WHERE YOUR CONCLUSIONS ARE. I THINK THE
25 RESPONSES AND THE INFORMATION RELATIVE TO THE CROSON CASE AND

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1 THE INFORMATION ABOUT MR. ROYALTY'S MORE RECENT OR ONLY
2 EXPERIENCES INTERACTING WITH THE HIGHER COURTS IN MARYLAND, AS
3 OPPOSED TO THE OUTSIDE LEGAL COMMENTS, WHICH MAY OR MAY NOT
4 HAVE HAD RECENT INTERACTIONS WITH THE MARYLAND COURTS ARE
5 COMPELLING ARGUMENTS FOR ME. I AM SUPPORTIVE OF HAVING THIS
6 PROGRAM, AS I THINK THE COMMITTEE UNANIMOUSLY IS, BUT CONTINUE
7 TO HAVE CONCERNS ABOUT THE IMPLICATIONS OF THE LOCAL PIECE AND,
8 ALSO, WOULD REMIND FOLKS THAT OUR OWN COUNTY COUNCIL ATTORNEYS
9 SHARE THE VIEW OF THE COUNTY ATTORNEY ON THESE ISSUES. THE
10 OTHER POINT I WOULD MAKE IS THAT DOCUMENTATION BECOMES A
11 CRITICAL ISSUE ON THIS AND WE HAVE LITTLE DOCUMENTATION, IF
12 ANY, TO DEVELOP THESE RECOMMENDATIONS. SO, I THINK I SPEAK FOR
13 MY COLLEAGUES ON THE M.F.P. COMMITTEE IN THAT WE CONTINUE TO
14 URGE THAT THIS NOT BE ADOPTED.

15
16 **COUNCILMEMBER PEREZ:** MR. ANDREWS.

17
18 **COUNCILMEMBER ANDREWS:** THANK YOU, MR. PRESIDENT. I THINK THE
19 OPINION THAT WE RECEIVED FROM MARC HANSEN AND CLIFFORD ROYALTY
20 IS USEFUL AND IMPORTANT, YOU KNOW, THE GIST OF THE ISSUE. THE
21 KEY ISSUE FOR ME IS WHAT'S THE LIKELY EFFECT OF THIS ON
22 MONTGOMERY COUNTY BUSINESS IN GENERAL IF THIS IS ADOPTED WITH
23 LOCAL PREFERENCE, GIVEN THAT VIRGINIA HAS PASSED A LAW THAT
24 SAYS IF A COMPANY FROM A JURISDICTION WITH A LOCAL PREFERENCE
25 BIDS FOR A VIRGINIA CONTRACT AND IS -- THEY'RE NOT GOING TO BE

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1 CONSIDERED. THAT'S THE GIST OF THE VIRGINIA LAW AND THAT'S A
2 HUGE ISSUE BECAUSE I THINK IT'S -- THEY CONCLUDE, IN THEIR
3 OPINION ON CIRCLE 119, "WE CONCLUDE IT IS MORE LIKELY THAN NOT
4 THAT THE VIRGINIA ATTORNEY GENERAL FACED WITH THE CHALLENGE
5 MADE BY A VIRGINIA BUSINESS TO A PROPOSED CONTRACT AWARD TO A
6 MONTGOMERY COUNTY BUSINESS BUSINESS IS LIKELY TO ADVISE THAT
7 HOUSE BILL 2151, THE VIRGINIA LAW, PRECLUDES A CONTRACT AWARD
8 TO A MONTGOMERY COUNTY BUSINESS." WELL, THAT'S A PRETTY STRONG
9 STATEMENT. AND I AGREE. I THINK IT'S MORE LIKELY THAN NOT, AS
10 WELL. WHAT INCENTIVE WOULD THE VIRGINIA ATTORNEY GENERAL HAVE
11 NOT TO DO THAT? SO, TO ME, THIS LEGAL OPINION OR LEGAL ADVICE
12 THAT WE'RE RECEIVING FROM THE COUNTY ATTORNEY RAISES HUGE RED
13 FLAGS, AND I THINK YOU RUN THOSE FLAGS AT YOUR PERIL. I THINK
14 WE WOULD BE DOING A DISSERVICE TO THE BUSINESS COMMUNITY AS A
15 WHOLE IF WE, IF THE COUNCIL ADOPTS A MEASURE THAT IN ORDER TO
16 TRY TO HELP LOCAL BUSINESS DISADVANTAGES ALL BUSINESS THAT DO
17 BUSINESS OR WANT TO DO BUSINESS IN OTHER STATES, LIKE VIRGINIA,
18 THAT HAVE THIS KIND OF STATUTE OR A PROVISION THAT PENALIZES
19 BUSINESSES FROM OTHER STATES THAT ARE APPLYING FROM STATES
20 THAT HAVE THIS KIND OF PREFERENCE. SO, TO ME IT'S NOT THE
21 PRIVILEGES CLAUSE SO MUCH OR THE EQUAL PROTECTION ISSUES,
22 WHICH MAY BE OVERCOMEABLE MAY BE OVERCOMEABLE, BUT I THINK
23 IT'S FLYING IN THE FACE OF THESE RED FLAGS TO GO FORWARD WITH
24 THIS LOCAL PREFERENCE LANGUAGE, GIVEN WHAT VIRGINIA HAS DONE
25 AND I THINK WHAT A CLEAR RESULT WOULD BEING IF A VIRGINIA

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1 BUSINESS COMPLAINED TO THE VIRGINIA ATTORNEY GENERAL ABOUT AN
2 AWARD TO A MONTGOMERY COUNTY BUSINESS. SO, FOR THAT REASON I
3 THINK THAT COMMITTEE WAS RIGHT IN KEEPING THIS AS A PROGRAM
4 THAT ENCOURAGES LOCAL BUSINESS, SUPPORTS LOCAL BUSINESS, BUT
5 DOESN'T RESTRICT IT THE WAY THAT BILL ORIGINALLY WOULD HAVE
6 RESTRICTED IT.

7

8 **COUNCILMEMBER PEREZ:** THANK YOU.

9

10 **COUNCILMEMBER ANDREWS:** I SHOULD SAY, I'M SORRY, ENCOURAGES
11 BUSINESS BUT DOESN'T RESTRICT IT THE WAY IT DID LOCALLY.

12

13 **COUNCILMEMBER PEREZ:** OKAY. LET'S TURN TO MR. HANSEN. THANK YOU
14 FOR YOUR MEMO, BY THE WAY.

15

16 **MARC HANSEN:** OH, THANK YOU FOR THE OPPORTUNITY TO SPEAK. I
17 WILL BE VERY BRIEF. OUR MEMO RESPONDED TO WHAT WE PERCEIVE TO
18 BE THREE QUESTIONS POSED BY THE COUNCIL AND OUR REACTION TO
19 PROFESSOR RASKIN'S COMMENTS ON THE ORIGINAL COUNTY ATTORNEY
20 OPINION EXPRESSING DOUBTS ABOUT THE VIABILITY FROM THE LEGAL
21 PERSPECTIVE OF THE LOCAL PREFERENCE APPROACH. I WILL JUST
22 SIMPLY SAY I THINK OUR MEMO SPEAKS FOR ITSELF. I DON'T THINK
23 IT BREAKS ANY NEW GROUND FROM THE DISCUSSION WE HAD THE LAST
24 TIME THAT WE MET TOGETHER SO I WON'T BELABOR THAT ISSUE. THE
25 SECOND ISSUE HAD TO DO WITH THE QUESTION ABOUT THE VIRGINIA

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1 LEGISLATION THAT WAS RECENTLY ENACTED, HOUSE BILL 2151. THAT
2 PROPOSED A VERY INTERESTING CHALLENGE FOR US BECAUSE, OF
3 COURSE, THIS IS A BRAND NEW LAW AND PRESUMABLY IT WILL BE
4 SIGNED BY THE GOVERNOR AND I DIDN'T DOUBLE-CHECK TO SEE IF IT
5 HAD. IT PASSED THE GENERAL ASSEMBLY, I THINK BUT WITH ONE
6 DISSENTING VOTE, AS I RECALL. THERE THE QUESTION IS ONE OF
7 STATUTORY CONSTRUCTION. WE HAVE NO HISTORY TO GO ON TO KNOW
8 HOW VIRGINIA WILL DEAL WITH THIS NEW STATUTE. INTERESTINGLY, I
9 HAD ONE OF MY ATTORNEYS CALL THE ATTORNEY GENERAL'S OFFICE IN
10 VIRGINIA. THEIR ORIGINAL REACTION WAS THAT YOU WOULD READ THE
11 STATUTE ON ITS FACE AND THEY SAID, WELL, MONTGOMERY COUNTY IS
12 NOT A STATE, IS IT? AND WE SAID NO, ALTHOUGH SOME PEOPLE IN
13 MARYLAND--

14
15 **COUNCILMEMBER PEREZ:** THAT'S THIS AFTERNOON'S AGENDA, MARC.

16
17 **MARC HANSEN:** BUT INTERESTINGLY, TWO DAYS LATER THAT ATTORNEY
18 GENERAL CALLED BACK AND HE SAID, "YOU KNOW, I'VE BEEN THINKING
19 ABOUT THIS AND I THINK I WAS WRONG. I THINK THAT THIS STATUTE
20 COULD BE READ OR WOULD BE READ TO INCLUDE A LAW PASSED BY
21 MONTGOMERY COUNTY." THAT RAISED SOME PRETTY SERIOUS FLAGS IN
22 MY MIND, THAT IF THE PROCUREMENT OCCURS IN VIRGINIA, VIRGINIA
23 BUSINESS LOSES AND THEY SAY I WANT TO INVOKE THIS LAW, THAT
24 JURISDICTION IS GOING TO GO TO THE STATE ATTORNEY GENERAL AND
25 ASK FOR AN OPINION. OUR VIEW IS THAT IT'S MORE LIKELY THAN NOT

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1 THAT THE STATE ATTORNEY GENERAL WILL SIDE WITH THE VIRGINIA
2 BUSINESS UNDER THE THEORY THAT THIS ASSISTANT LAID OUT FOR US.
3 THE THIRD ISSUE SPUN OFF OF A QUESTION THAT, AS I RECALL,
4 COUNCILMEMBER SILVERMAN ASKED ABOUT WHAT A PRINCIPAL BUSINESS
5 MEANT. THAT FALLS INTO THE ISSUE OF WHAT IS A LOCAL BUSINESS
6 OR WHAT IS NOT A LOCAL BUSINESS AND WE DECIDED TO TRY TO TAKE
7 A CLOSE LOOK AT THE CRITERIA SET OUT IN THE BILL. WE CONCLUDED
8 THERE ARE SOME DIFFICULT QUESTIONS THAT ARE RAISED BY BY SOME
9 OF THESE ISSUES. FOR EXAMPLE, DOES THE BUSINESS PAY PERSONAL
10 PROPERTY TAXES OR NOT? WHEN WE LOOKED AT THAT WHOLE PROCESS WE
11 DISCOVERED THAT THERE IS A LAG TIME BETWEEN WHEN A BUSINESS
12 OPENS ITS DOORS AND WHEN IT STARTS PAYING TAX. IT COULD BE AS
13 LONG AS, AS MORE THAN A YEAR. AND SO THAT BUSINESS COULD BE
14 OPERATING IN MONTGOMERY COUNTY FOR SOME TIME BUT WOULDN'T BE
15 ELIGIBLE FOR THE PROGRAM. THEREFORE, WE SUGGESTED LOOKING AT
16 ALL OF THE CRITERIA AS A WHOLE, THAT IT MIGHT BE PREFERABLE
17 FOR THE COUNCIL TO LOOK AT SOME GENERAL GUIDANCE TO THE
18 EXECUTIVE ABOUT WHAT A LOCAL BUSINESS IS AND THEN ASK FOR
19 EXECUTIVE LEGISLATION TO FLESH THAT OUT.

20
21 **COUNCILMEMBER PEREZ:** MR. FADEN, DID YOU WANT TO ADD ANYTHING?

22
23 **MR. FADEN:** MR. PRESIDENT, THERE REALLY ISN'T MUCH TO SAY.
24

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1 **COUNCILMEMBER PEREZ:** I MAN I THINK WE HAVE -- THERE'S A HORSE
2 IN THE CORNER THAT'S LIMPING BECAUSE IT HAS BEEN BEATEN.

3

4 **MR. FADEN:** YES, INDEED. AS YOU KNOW WE DON'T HESITATE TO
5 DISAGREE WITH THE COUNTY ATTORNEY'S OFFICE WHEN WE THINK
6 THEY'RE WRONG IN INTERPRETING THE LAW. IN THIS CASE WE THINK
7 THEY ARE.

8

9 **COUNCILMEMBER PEREZ:** FAIR ENOUGH. I HAVE A QUESTION. DOCTOR
10 TIGNOR, DID YOU WANT TO ADD ANYTHING?

11

12 **DR. TIGNOR:** I DON'T KNOW. I THINK, JUST TO ANSWER ONE
13 QUESTION--

14

15 **COUNCILMEMBER PEREZ:** EXCUSE ME. HIT YOUR BUTTON.

16

17 **DR. TIGNOR:** I'M SORRY. I JUST WANTED TO ASK, ANSWER A QUESTION
18 THAT I BELIEVE MR. LEVENTHAL HAD POSED FOR ME BEFORE AND THAT
19 WAS THE STATUS OF THE LAW IN HARFORD COUNTY. AND IT IS BASED
20 ON TIED BID, AS WE DO IN MONTGOMERY COUNTY. THAT'S ALL I HAD
21 TO ADD, JUST TO ANSWER YOUR QUESTION.

22

23 **COUNCILMEMBER PEREZ:** WE ASKED ABOUT W.S.S.C., AS WELL. AND DID
24 YOU HAVE A CHANCE TO TAKE A LOOK AT WHAT THE STATUS WAS OF
25 THAT? I'M LOOKING AT YOU, SONYA, BECAUSE YOU HAD THAT--

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1

2 **SONYA HEALY:** YES. AS I BELIEVE DOCTOR TIGNOR NOTED LAST TIME,
3 THEY HAVEN'T FULLY IMPLEMENTED THE PROGRAM AT THIS POINT. THEY
4 ARE STILL FLESHING THINGS OUT AND THEY DO HAVE THE APPARATUS
5 IN PLACE AS FAR AS THE PROGRAM. I ACTUALLY HAVE THE OUTLINE
6 RIGHT HERE, BUT IT HASN'T BEEN FULLY IMPLEMENTED YET.

7

8 **COUNCILMEMBER PEREZ:** THAT IS A, IT'S A BUSINESS SET ASIDE.
9 IT'S A PREFERENCE, I THINK.

10

11 **SONYA HEALY:** WELL, THEY DO ALSO HAVE A SHELTERED MARKET
12 PROGRAM AS WELL.

13

14 **COUNCILMEMBER PEREZ:** FOR LOCAL BUSINESSES?

15

16 **SONYA HEALY:** YEAH, IT'S TWO SEPARATE PIECES. YES, YES.

17

18 **COUNCILMEMBER PEREZ:** OKAY. AND SO PRESUMABLY THERE WAS
19 SOMEBODY AT THE STATE ATTORNEY GENERAL'S OFFICE THAT OPINED. I
20 GUESS, IS W.S.S.C., THEN, YOUR LOGIC, AS IT RELATES TO THE
21 STATE OF VIRGINIA --

22

23 **SPEAKER:** IT'S A STATE AGENCY.

24

25 **COUNCILMEMBER PEREZ:** WOULD ALSO APPLY TO W.S.S.C.

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1

2 **SPEAKER:** YES, IN MARYLAND AND IN [INAUDIBLE]. COUNCILMEMBER

3 PEREZ: OKAY.

4

5 **SONYA HEALY:** AND THE STATE LEGISLATION, CORRECT ME IF I'M

6 WRONG, MARK, BUT IT JUST ENABLED THEM TO ESTABLISH THE PROGRAM

7 BECAUSE FIRST TIME IT WAS OVERRULED THAT THEY DIDN'T HAVE

8 AUTHORITY ACTUALLY TO DO IT.

9

10 **COUNCILMEMBER PEREZ:** CORRECT. YEAH. NO, I THINK THAT'S

11 ABSOLUTELY RIGHT. BUT I ASSUME, IN THE CONTEXT OF OPINING

12 WHETHER TO GRANT THAT ENABLING AUTHORITY, YOU NEED TO ADDRESS

13 SOME OF THE QUESTIONS THAT WE'VE DISCUSSED HERE OVER THE LAST

14 FEW SESSIONS.

15

16 **SONYA HEALY:** I DON'T THINK THAT THEY ASKED THAT QUESTION.

17

18 **COUNCILMEMBER PEREZ:** OKAY.

19

20 **COUNCILMEMBER PRAISNER:** THAT QUESTION.

21

22 **COUNCILMEMBER PEREZ:** SO, I GUESS IT'S CONCEIVABLE THAT

23 SOMEBODY WAS ASLEEP AT THE SWITCH AND DIDN'T HAVE A

24 CONVERSATION ABOUT IT.

25

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1 **SONYA HEALY:** I THINK, AS I RECALL GOING BACK AND LOOKING AT
2 THE ISSUE, I DON'T THINK THAT THEY WERE ASKED THE QUESTION OF
3 WHAT WOULD BE THE IMPLICATIONS, YOU KNOW, FROM A LEGAL ISSUE.
4 IT WAS JUST DID THEY HAVE THE AUTHORITY, WHICH WAS THE
5 QUESTION THAT WAS ANSWERED THAT THEY, NO, DO NOT HAVE THE
6 AUTHORITY. THAT WAS THE ONLY QUESTION THAT WAS ANSWERED. AND I
7 GUESS, IN TRUE LAWYER FASHION AT THE ATTORNEY GENERAL'S OFFICE
8 THEY ONLY ANSWERED THE SPECIFIC QUESTION THEY WERE ASKED. AND
9 THAT WAS THE ONLY QUESTION THEY WERE ASKED.

10

11 **COUNCILMEMBER PEREZ:** THAT'S NEVER STOPPED ME WHEN I WAS IN THE
12 ATTORNEY GENERAL'S OFFICE FROM ANSWERING QUESTIONS.

13

14 **SONYA HEALY:** BUT THAT WAS, I THINK, THE ONLY QUESTION THEY
15 WERE ASKED. THAT WAS MY RECOLLECTION.

16

17 **COUNCILMEMBER PEREZ:** RIGHT. OKAY. WELL, THERE ARE A NUMBER OF
18 LIGHTS ON. WE'LL GO FROM RIGHT TO LEFT. MR. KNAPP?

19

20 **COUNCILMEMBER KNAPP:** THANK YOU, MR. PRESIDENT. DOCTOR TIGNOR,
21 I JUST WANT TO, FIRST OF ALL, THANK YOU VERY MUCH FOR YOUR
22 RESPONSES TO THE QUESTIONS THAT I SENT OVER THE OTHER DAY.

23

24 **DR. TIGNOR:** YOU'RE WELCOME.

25

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1 **COUNCILMEMBER KNAPP:** I WAS LOOKING AT THE UPSIDE DOWN,
2 BACKWARDS PERFORMANCE MEASURES, BOTH THAT WE GOT FROM THE
3 COUNTY EXECUTIVE'S OFFICE AND WAS LOOKING AT PROCUREMENT
4 PROGRAMS AND JUST WANTED TO -- WAS STRUCK, I GUESS. THE RAPID
5 PROGRAM. WHEN WE TALK ABOUT HOW WE WOULD IMPLEMENT THIS BILL,
6 WOULD THESE PROCUREMENTS WE'RE TALKING ABOUT BE POSTED ON THE
7 RAPID PROGRAM?

8

9 **DR. TIGNOR:** YES.

10

11 **COUNCILMEMBER KNAPP:** OKAY. AND I GUESS THE THING THAT STRUCK
12 ME IS THAT WE WANTED TO ENSURE THAT MORE PEOPLE ACCESS
13 INFORMATION SO THAT THEY COULD MAKE PURCHASES. AND AS I LOOK
14 AT THE WEBSITE -- WELL, LET ME ASK YOU THIS. IT'S A
15 SUBSCRIPTION SERVICE?

16

17 **DR. TIGNOR:** YES. IT'S A SUBSCRIPTION SERVICE.

18

19 **COUNCILMEMBER KNAPP:** AND WHAT'S THE SUBSCRIPTION? WHAT'S THE
20 FEE?

21

22 **DR. TIGNOR:** THE FEE IS \$200, I MEAN \$100 A YEAR.

23

24 **COUNCILMEMBER KNAPP:** FOR ANY SIZE BUSINESS?

25

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1 **DR. TIGNOR:** FOR ANY SIZE BUSINESS.

2

3 **COUNCILMEMBER KNAPP:** OKAY. I GUESS THE THING I WAS STRUCK BY
4 IS, IF YOU LOOK AT THE NUMBER OF HITS THAT THAT SITE HAS
5 RECEIVED, IT HAS DECLINED PRETTY DRAMATICALLY FROM A HIGH OF
6 24,000 IN FY03 DOWN TO 16,000 THIS PAST YEAR AND YOU'RE ONLY,
7 IN THIS CURRENT YEAR BUDGET, ASSUMING ABOUT THE SAME NUMBER OF
8 HITS. AND THE NUMBER, THE PERCENTAGE OF VENDORS USING THAT
9 SYSTEM ARE ABOUT 7% OF ALL OF THE COUNTY'S VENDORS.

10

11 **DR. TIGNOR:** I THINK, WHAT WE HAVE HERE IS A CASE, WHEN
12 MONTGOMERY COUNTY INITIATED THE RAPID SYSTEM, WE WERE THE ONLY
13 COUNTY IN THE AREA IN THE WASHINGTON, D.C. METROPOLITAN,
14 MARYLAND, AND NORTHERN VIRGINIA AREA, THAT HAD THIS
15 SUBSCRIPTION SERVICE. AND SO EVERYONE USED IT. VIRGINIA USED
16 IT, D.C. AND ALL OF MARYLAND. SINCE THAT TIME THE STATE OF
17 MARYLAND HAS DEVELOPED MARYLAND MARKETPLACE. VIRGINIA HAS
18 DEVELOPED ITS OWN SUBSCRIPTION SERVICE. SO NOW THE HITS THAT
19 VIRGINIA WAS LOOKING FOR IN MARYLAND ARE NOW ON THE VIRGINIA
20 RAPID. THE HITS THAT OTHER MARYLANDERS MAY HAVE BEEN LOOKING
21 FOR THAT WE CARRIED FOR THE STATE ARE NOW ON THE MARYLAND
22 MARKETPLACE, SO THE INTERESTING THING IS THAT IT HAS BEEN
23 DILUTED WITH OTHER SERVICES. SO WE NO LONGER REIGN AS THE
24 OTHER JURISDICTION THAT HAS THIS SERVICE.

25

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1 **COUNCILMEMBER KNAPP:** DILUTED WITH OTHER SERVICES BUT OUR
2 LISTINGS GO OTHER PLACES, TOO?

3
4 **DR. TIGNOR:** YES.

5
6 **COUNCILMEMBER KNAPP:** OH, I SEE. OKAY. SO IN ADDITION TO BEING
7 HERE THEY'RE POSTED OTHER PLACES. SO THIS WOULDN'T BE THE ONLY
8 POINT OF ENTRY.

9
10 **DR. TIGNOR:** RIGHT. THAT'S WHY -- AT ONE TIME VIRGINIA DIDN'T
11 HAVE IT, FOR EXAMPLE. SO WE HAD ALL OF VIRGINIA'S ON OUR RAPID
12 SYSTEM. WHEN VIRGINIA CREATED ITS OWN, THEN PEOPLE STARTED
13 BUYING INTO VIRGINIA BECAUSE IT'S A LOTS I'M ONLY INTERESTED
14 IN DOING VIRGINIA OR MAYBE PRINCE GEORGE'S SAID I'M ONLY
15 INTERESTED IN DOING PRINCE GEORGE'S BUT, CURRENTLY, WE CARRY
16 EVERYONE'S. WE ARE SORT OF A REPOSITORY FOR ALL OF THE
17 PROCUREMENTS IN THE AREA. HOWEVER, PEOPLE CHOOSE NOT TO USE US
18 AS OFTEN BECAUSE THEY NOW HAVE THEIR OWN JURISDICTIONS. THERE
19 ARE CERTAIN PEOPLE WHO ARE ONLY INTERESTED IN DOING BUSINESS
20 IN PRINCE GEORGE'S, OR HOWARD, OR ALEXANDRIA, SO THEY DON'T
21 HIT LIKE THEY USED TO.

22
23 **COUNCILMEMBER KNAPP:** BUT PRESUMABLY, OUR LOCAL BUSINESSES
24 WOULD USE OUR LOCAL WEBSITE?

25

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1 **DR. TIGNOR:** YES.

2

3 **COUNCILMEMBER KNAPP:** ONE WOULD THINK?

4

5 **DR. TIGNOR:** I WOULD PRESUME.

6

7 **COUNCILMEMBER PRAISNER:** WELL, NOT IF THEY DON'T -- IF THEY
8 HAVE ACCESS THROUGH SOME OTHER VEHICLE THAT THEY ARE MORE
9 COMFORTABLE USING, BECAUSE THAT'S WHERE MOST OF THEIR BUSINESS
10 INTERACTS, I THINK. WHAT WE FOUND WITH PROCUREMENT WHEN WE
11 STARTED THIS IN THE EARLY '90S IS THAT THE DIFFERENT AGENCIES
12 HAD DIFFERENT METHODS AND WE WERE TRYING TO DEAL WITH
13 EXPANDING AND JOINING THE INFORMATION TO MAKE IT EASIER.
14 THAT'S WHY THE M.F.D. CERTIFICATION COMES THROUGH THE STATE
15 PROCESS AND WE TRIED TO GET ALL OF THE AGENCIES TO USE A
16 COMMON CODE SO THAT PEOPLE WOULD HAVE -- IT WOULD BE EASIER.
17 IT'S NOT NECESSARILY, FOLLOWS THAT ONLY MONTGOMERY COUNTY
18 FOLKS WOULD USE THE MONTGOMERY COUNTY SYSTEM, DEPENDING ON THE
19 TYPE OF BUSINESS AND TYPE OF INTERACTION. AND AS LONG AS YOU
20 HAVE INTERNET ACCESS OR ACCESS TO THE BID LIST, IT DOESN'T
21 MATTER WHICH WAY YOU GO.

22

23 **COUNCILMEMBER KNAPP:** WELL, I GUESS THAT, SO TO THAT POINT, MRS.
24 PRAISNER, THANK YOU FOR THE CLARIFICATION, IS DO WE HAVE AN

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1 UNDERSTANDING OF WHAT PERCENTAGE OF OUR VENDORS ARE
2 IDENTIFYING SOLICITATIONS FROM ONLINE SITES?

3

4 **DR. TIGNOR:** I DON'T HAVE IT WITH ME, BUT I CAN GET IT FOR YOU.

5

6 **COUNCILMEMBER KNAPP:** BUT I MEAN IS IT, I MEAN BALLPARK, IS IT
7 15%? IS IT 80%?

8

9 **DR. TIGNOR:** WOULD I SAY SOMEWHERE AROUND 15% TO 20% OF OUR
10 VENDORS USE THE SUBSCRIPTION SERVICE.

11

12 **COUNCILMEMBER KNAPP:** SO STILL A RELATIVELY LOWER NUMBER.

13

14 **DR. TIGNOR:** BUT LET ME JUST EXPLAIN SOMETHING.

15

16 **COUNCILMEMBER KNAPP:** SURE.

17

18 **DR. TIGNOR:** A HIT AND THE ACTUAL DOWNLOADING WOULD BE TWO
19 DIFFERENT THINGS. A "HIT" MEANS SOMEONE COULD GO ON AND LOOK
20 AT IT. I THINK WE WANT TO LOOK AT THE NUMBER OF DOWNLOADS, TOO,
21 SO HOW MANY ACTUALLY DOWNLOADED.

22

23 **COUNCILMEMBER KNAPP:** RIGHT. NO, I GUESS -- SO, IN THE
24 LEGISLATION WE HAVE BEFORE US, WE'RE SETTING 10% OF EACH OF
25 OUR DEPARTMENT'S PROCUREMENTS ASIDE FOR SMALL BUSINESSES,

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1 LOCAL SMALL BUSINESSES. HOW WOULD WE -- WHAT HAPPENS IN THE
2 EVENT THAT WE DON'T HAVE PEOPLE WHO ARE SMALL BUSINESSES WHO
3 ARE ACTUALLY PROCURING THAT SET-ASIDE?

4

5 **DR. TIGNOR:** I CAN'T ANSWER THAT BECAUSE I DON'T KNOW.

6

7 **SPEAKER:** THEY'RE NOT QUALIFIED.

8

9 **COUNCILMEMBER KNAPP:** NOT QUALIFIED? WHAT -- THE PART THAT--

10

11 **SPEAKER:** THEY DON'T EXIST.

12

13 **COUNCILMEMBER KNAPP:** I'M NOT EVEN SURE THAT THEY EVEN EXIST.

14 THE PART THAT I'M CONCERNED WITH IS, IN LOOKING AT THIS, WE'RE

15 SEEING THAT A RELATIVELY SMALL NUMBER OF PEOPLE ARE ACTUALLY

16 ACCESSING INFORMATION TO DETERMINE WHAT'S AVAILABLE FOR

17 PROCUREMENT IN THE FIRST PLACE.

18

19 **SPEAKER:** MM-HMM.

20

21 **COUNCILMEMBER KNAPP:** AND SO, EVEN THOUGH WE DO THIS SET-ASIDE,

22 WHICH I THINK IS LAUDABLE, MY CONCERN IS THAT PEOPLE AREN'T

23 SEEKING THE INFORMATION IN THE FIRST PLACE. SO, HOW DO WE

24 ENSURE THAT PEOPLE ACTUALLY GATHER -- GET THE INFORMATION SO

25 THAT THEY ARE PROCURING AT ALL?

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1

2 **SPEAKER:** I GUESS THAT I CAN SPEAK ONLY FOR MYSELF. I THINK IT
3 IS A PHENOMENALLY IMPORTANT QUESTION. AND I KNOW IN OTHER
4 CONTEXTS WHERE THESE PROGRAMS HAVE BEEN IN PLACE AND I DON'T -
5 - I CONFESS, I SHOULD KNOW THE ANSWER TO THIS. I DON'T KNOW IF
6 THE LANGUAGE IS IN HERE. THERE IS USUALLY LANGUAGE INDICATING
7 THAT IF YOU DON'T HAVE MARKET PARTICIPATION FROM WITHIN THE
8 COHORT YOU ARE TRYING TO HELP, THEN ANYONE CAN COMPETE FOR
9 THAT BUSINESS.

10

11 **COUNCILMEMBER KNAPP:** OKAY. BECAUSE I -- THIS DOESN'T ADDRESS
12 IT IN HERE.

13

14 **COUNCILMEMBER PEREZ:** AND IF IT'S NOT IN HERE I THINK WE SHOULD
15 ADDRESS IT.

16

17 **COUNCILMEMBER KNAPP:** OKAY. SO I THINK WE SHOULD--

18

19 **COUNCILMEMBER PEREZ:** THAT'S A FAIR POINT.

20

21 **COUNCILMEMBER KNAPP:** BECAUSE THAT'S MY CONCERN.

22

23 **DR. TIGNOR:** RIGHT.

24

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1 **COUNCILMEMBER KNAPP:** IS THAT I THINK WHAT WE'RE TRYING TO
2 ACCOMPLISH WITH THIS BILL IS A WORTHWHILE GOAL, WHICH IS TO
3 ENSURE THAT OUR SMALL BUSINESSES ARE GAINING ACCESS TO LOCAL
4 CONTRACTS. WHAT MY CONCERN HAS BEEN, AND THIS WAS SOME OF THE
5 QUESTIONS THAT I SENT TO DR. TIGNOR EARLIER THIS WEEK, IS WHAT
6 IS THE ACTUAL PROBLEM? AND I'M STILL NOT SURE THAT WE REALLY
7 KNOW WHAT THAT PROBLEM IS. PART OF IT WE'RE GOING TO ADDRESS
8 BECAUSE WE HAVE AN O.L.O. STUDY ASSOCIATED WITH THIS. AND
9 WHILE I WILL LIKELY SUPPORT THE MOTION THAT MR. LEVENTHAL HAS
10 PUT FORTH, MY CONCERN STILL REMAINS THAT I THINK WE'RE GOING
11 TO GO AWAY WITH THE PERCEPTION THAT WE'VE ACCOMPLISHED
12 SOMETHING AND I'M NOT NECESSARILY SURE THAT WE HAVE AND
13 ESPECIALLY LOOKING AT NUMBERS LIKE THIS. IF IT'S HERE, IT'S
14 AVAILABLE. MUCH OF THIS INFORMATION IS ALREADY AVAILABLE ON
15 WEBSITES AND PEOPLE AREN'T AVAILING THEMSELVES OF IT, IT WOULD
16 SEEM TO ME THAT THERE'S A BIGGER PROBLEM AND I DON'T
17 NECESSARILY KNOW WHAT THAT BIGGER PROBLEM IS, BUT I'M NOT SURE
18 THAT SETTING 10% ASIDE ADDRESSES THAT PROBLEM.

19
20 **COUNCILMEMBER PRAISNER:** WELL, REMEMBER, YOU'RE NOT POSTING AT
21 THE THRESHOLD LEVEL OF PROCUREMENT AT THIS POINT, THAT YOU ARE
22 REQUIRING IN THIS LEGISLATION. SO, ALTHOUGH IT IS AN ACCESS
23 ISSUE, AND WE DON'T HAVE THE DATA, WHICH I DEFINITELY AGREE
24 WITH IN THE COMMITTEE, WHAT YOU ARE TALKING ABOUT AS FAR AS

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1 REQUIRING A POSTING IS AT A LOWER THRESHOLD THAN WE HAD BEFORE.
2 AM I RIGHT? BECAUSE OF THE -- OF THE \$5,000.

3

4 **COUNCILMEMBER PEREZ:** SURE. THAT'S TRUE.

5

6 **COUNCILMEMBER KNAPP:** RIGHT. WE'VE LOWERED THE FLOOR REGARDLESS
7 OF WHAT WE DO ON THIS.

8

9 **COUNCILMEMBER PRAISNER:** RIGHT.

10

11 **COUNCILMEMBER KNAPP:** BUT AGAIN, I'M STILL -- AND, HOPEFULLY
12 THAT WILL -- BECAUSE WE'VE GOT A LOWER POSTING, SHOULD
13 GENERATE MORE INTEREST BUT WE DON'T KNOW THAT, EITHER.

14

15 **COUNCILMEMBER PRAISNER:** RIGHT.

16

17 **COUNCILMEMBER KNAPP:** AGAIN, I DON'T HAVE ANY -- I WOULD I
18 CERTAINLY SUPPORT, IF THIS IS A MOTION --

19

20 **COUNCILMEMBER PEREZ:** WELL, IT WASN'T NECESSARILY A MOTION
21 BECAUSE I WASN'T -- WE CAN DISPOSE OF MR. LEVENTHAL'S MOTION
22 BUT I SUPPORT AN EFFORT TO CLARIFY THAT IF THERE IS NO MARKET
23 FOR THAT PARTICULAR GOOD OR SERVICE, WITHIN THAT 10% THRESHOLD
24 THAT IT WOULD BE OPENED UP ELSEWHERE.

25

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1 **COUNCILMEMBER KNAPP:** WELL, I GUESS THE OTHER POINT THAT WE
2 COULD RAISE, IS I THINK THAT'S IMPORTANT TO MAKE SURE WE
3 UNDERSTAND HOW WE DISPOSE OF THE FACT THAT WE DON'T HAVE
4 PEOPLE NECESSARILY COMING FORWARD FOR BIDS. BUT THE OTHER
5 PIECE THAT IS, AND I HAVEN'T SEEN THIS SO I GUESS THIS IS A
6 BUNCH OF QUESTIONS TO THE BILL SPONSORS OR THE COMMITTEE, DO
7 WE HAVE SOME OUTREACH MECHANISM ASSOCIATED HERE AND WHAT IS IT
8 BECAUSE THAT'S MY BIG CONCERN, THAT EVEN THOUGH WE'VE DONE
9 THIS, I'M NOT SURE THAT PEOPLE ARE GOING TO KNOW THAT IT'S
10 THERE IN THE FIRST PLACE, KNOW WHERE THEY GO TO GET IT SINCE
11 THEY'RE ALREADY NOT DOING IT. AND SO, DO WE HAVE ANYTHING IN
12 THE LEGISLATION THAT ADDRESSES THAT OUTREACH COMPONENT OR SOME
13 REQUIREMENT FOR OUTREACH THAT--

14
15 **COUNCILMEMBER PRAISNER:** NOW, ONE WOULD HAVE TO, I THINK,
16 UNFORTUNATELY THE DEPARTMENT OF ECONOMIC DEVELOPMENT, WHICH
17 WOULD BE MANAGING THIS PROGRAM, ISN'T HERE. BUT, JOE, MAYBE
18 YOU CAN COMMENT ON --

19
20 **JOE BEACH:** WHEN WE ORIGINALLY PREPARED THE FISCAL IMPACT
21 STATEMENT THE ASSUMPTION WAS THIS WOULD BE LOCATED IN THE
22 OFFICE OF PROCUREMENT. SINCE THEN WE'VE DETERMINED IT'S MORE
23 APPROPRIATE TO BE IN THE DEPARTMENT OF ECONOMIC DEVELOPMENT.
24 AFTER THAT IT WAS APPROVED BY M.F.P., WE DID BRING IN D.E.D.
25 ON THIS. THEY LOOKED AT THE FISCAL IMPACT STATEMENT AND THEY

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1 WERE RECOMMENDING MORE FUNDING FOR MARKETING AND PROMOTION AND
2 OUTREACH OF THIS AS WELL, ALTHOUGH THAT WOULD--

3

4 **COUNCILMEMBER LEVENTHAL:** COULD I JUST COMMENT AT THIS POINT?

5 IT SEEMS GERMANE TO ME THAT COUNTY EXECUTIVE IS RECOMMENDING

6 IN HIS '06 BUDGET A NEW POSITION TO BE A SMALL BUSINESS

7 ADVISOR TO BE LOCATED IN THE DEPARTMENT OF ECONOMIC

8 DEVELOPMENT. I'M INCLINED TO SUPPORT THAT POSITION AND IT MAY

9 WELL BE THAT SOME OF THE DUTIES OF, YOU KNOW, INFORMING THE

10 BUSINESS COMMUNITY ABOUT THE NEW OPPORTUNITIES UNDER THE NEW

11 LOCAL SMALL BUSINESS RESERVE MIGHT WELL COME UNDER THAT NEW

12 PROPOSED POSITION.

13

14 **COUNCILMEMBER PRAISNER:** REMEMBER, THERE IS A SIGNIFICANT

15 RATCHETING UP THAT IS ASSOCIATED WITH THIS LEGISLATION. WE

16 HAVE URGED IT BE DONE AS QUICKLY AS POSSIBLE BUT THERE IS A

17 LOT OF TECHNOLOGY REQUIREMENTS ASSOCIATED WITH THE THRESHOLD

18 LEVELS THAT WE'RE TALKING ABOUT, WHICH ARE UNIQUE IN LOCAL

19 GOVERNMENTS. SINCE I THINK SONYA'S PACKET SAYS NO ONE POSTS

20 BELOW \$25,000 SO THE REQUIREMENT FOR \$5,000 AND ABOVE IS GOING

21 TO REQUIRE SIGNIFICANT WORK IN THE DEPARTMENTS WHICH MANAGE

22 THAT PROCUREMENT INTERNALLY TO THE DEPARTMENTS IN THE

23 DEPARTMENT OF ECONOMIC DEVELOPMENT, AS WELL AS WITH TECHNOLOGY

24 SERVICES. SO, I ONLY SAY THAT FROM A FISCAL IMPACT ISSUE, IT

25 IS MORE LIKELY TO HIT FULL FORCE IN '07 THAN '06.

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1

2 **COUNCILMEMBER KNAPP:** I WILL LOOK IN THIS TO LOOK FURTHER TO
3 SEE IF THERE MAY BE A PLACE TO PUT IN SOME LANGUAGE BECAUSE I
4 THINK THE MARKETING AND OUTREACH PIECE IS GOING TO BE PRETTY
5 SIGNIFICANT. I MEAN WITH ALL DUE RESPECT, I'M NOT SURE THAT A
6 POSITION IS NECESSARILY GOING TO GET YOU THERE, GIVEN THE
7 MAGNITUDE OF THINGS WE'RE GOING TO BE POSTING. AND SO I JUST,
8 SO I'LL LOOK AT THAT. BUT THOSE ARE MY CONCERNS, THAT I THINK
9 WHAT WE'RE DOING IS WELL-INTENTIONED. I'M JUST NOT NECESSARILY
10 SURE THAT IT'S ADDRESSING THE ISSUES THAT ARE OUT THERE. I
11 MEAN AT THE END OF THE DAY, I THINK WE ALL WANT TO MAKE SURE
12 THAT OUR LOCAL, SMALL BUSINESSES ARE GETTING ACCESS TO THOSE
13 RESOURCES THAT WE ARE PROVIDING, AS WE PUT OUT BIDS FOR
14 VARIOUS -- FOR VARIOUS CONTRACTS. AND I JUST WANT TO MAKE SURE
15 THAT WE ACTUALLY, AT THE END OF THE DAY, GET THERE. AND SO I
16 WILL COME BACK WITH LANGUAGE THAT YOU PROPOSED, MR. PEREZ, ON
17 THE DISPOSITION PIECE, BUT ALSO LOOK AT IF WE CAN ADD SOME ON
18 THE MARKETING OUTREACH ELEMENT, AS WELL.

19

20 **COUNCILMEMBER PEREZ:** OKAY.

21

22 **COUNCILMEMBER LEVENTHAL:** I JUST WANTED TO MAKE ONE MORE QUICK
23 COMMENT, IF I COULD.

24

25 **COUNCILMEMBER PEREZ:** SURE.

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1

2 **COUNCILMEMBER LEVENTHAL:** IF WE'RE PROCEEDING WITH THIS.

3

4 **COUNCILMEMBER PEREZ:** YEAH, WE'RE GOING THIS WAY.

5

6 **COUNCILMEMBER LEVENTHAL:** AND THAT HAS TO DO WITH VIRGINIA LAW.

7 I MEAN WE COULD HYPOTHESIZE A SITUATION WHERE A TOBACCO STATE

8 WANTED TO RETALIATE AGAINST US FOR BANNING SMOKING IN PUBLIC

9 PLACES. WE COULD HYPOTHESIZE ALL KINDS OF EFFORTS BY STATES TO

10 DICTATE TO US, WHAT THEY BELIEVE IS APPROPRIATE POLICY. WE

11 COULD IMAGINE RETALIATION AGAINST US FOR HAVING DOMESTIC

12 PARTNER BENEFITS. WE COULD SEE ALL KINDS OF EFFORTS. YOU KNOW,

13 WE'RE IN A SOMEWHAT CIRCULAR SITUATION. IF THE STATE OF

14 VIRGINIA IS GOING TO TELL US WHAT OUR POLICY SHOULD BE WITH

15 RESPECT TO CONTRACTS HAVING TO DO ACROSS STATE LINES, IT IS

16 ALSO THE CASE THAT WE, THEN, ARE IN THE POSITION OF BEING TOLD

17 BY THEM HOW TO SET OUR POLICY. SO I JUST THINK THAT WE SHOULD

18 NOT NECESSARY LOOK TO THE STATE OF VIRGINIA TO TELL US HOW

19 BEST TO ENCOURAGE SMALL BUSINESSES IN MONTGOMERY COUNTY SINCE

20 WE COULD ALSO SEE -- IF WE'RE GOING TO SAY THE MERE FACT THAT

21 ANOTHER STATE HAS PASSED A LAW THAT, IN SOME WAY, IS GERMANE

22 TO WHAT WE PROPOSE TO DO TODAY THE SAME THING COULD OCCUR ON

23 ANY NUMBER OF CIRCUMSTANCES. AND ANY STATE COULD PASS A LAW

24 SAYING THAT THEY WON'T DO BUSINESS WITH A STATE THAT PROVIDES

25 BENEFITS TO, YOU KNOW, PROTECTION TO SEXUAL ORIENTATION, OR

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1 ANY NUMBER OF THINGS THAT STATES MIGHT WANT TO CHANGE IN OTHER
2 STATES. I JUST DON'T THINK THAT'S A GOOD WAY TO SET OUR POLICY,
3 BY RESPONDING TO A POLICY IN ANOTHER STATE. WE SHOULD MAKE A
4 POLICY JUDGMENT AS TO WHAT WE BELIEVE IS GOOD FOR MONTGOMERY
5 COUNTY BASED ON THE CONCERNS EXPRESSED BY OUR CONSTITUENTS,
6 WHICH I WILL NOW SAY FOR THE GOD KNOWS WHAT, 100TH TIME,
7 OVERWHELMINGLY HAVE BEEN IN SUPPORT OF THIS APPROACH AND WE
8 SHOULD NOT DETERMINE WHAT OUR BEST APPROACH IS BASED ON WHAT
9 VIRGINIA LEGISLATURE OR THE LEGISLATURE OF ANY STATE HAS
10 DETERMINED WHAT OUR APPROACH SHOULD BE. WE SHOULD DETERMINE
11 THAT.

12
13 **COUNCILMEMBER PEREZ:** MS. FLOREEN?

14
15 **COUNCILMEMBER FLOREEN:** THANK YOU. I WANTED TO RETURN TO THE
16 LEGAL QUESTION, THE PREFERENCE ISSUE. AND I WANTED TO GET A
17 RESPONSE FROM OUR LEGAL EAGLES HERE ON A RATHER FUNDAMENTAL
18 ISSUE. AND I HATE TO ASK THIS QUESTION BECAUSE I DON'T KNOW
19 THE ANSWER, WHICH IS ARE ALL PREFERENCES REALLY ALIKE IN THE
20 LAW? BECAUSE THERE ARE DIFFERENT WAYS OF ADDRESSING THIS ISSUE.
21 IN SOME SITUATIONS YOU SAY "X" PERCENTAGE OF A CONTRACT OR "X"
22 PERCENTAGE OF EMPLOYEES FOR ALL PROGRAMS OR, YOU KNOW, THE --
23 I THINK THE CAMDEN CASE CASE REQUIRED A RESIDENCY REQUIREMENT
24 FOR A PERCENTAGE OF EVERYONE WHO WORKED ON EVERYTHING, WHICH
25 IS QUITE DIFFERENT IT SEEMS TO ME, FROM THE SITUATION THAT

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1 WE'RE LOOKING AT HERE. AND I WONDERED IF YOU COULD COMMENT ON
2 THAT. BECAUSE I DON'T THINK THAT THEY ARE ALL ALIKE.

3

4 **MARC HANSEN:** NO, THEY ARE NOT ALL ALIKE. YOU'RE QUITE CORRECT.
5 THE IMPACT, OR THE LEGAL SIGNIFICANCE OF THE DIFFERENT KINDS
6 OF PREFERENCES PLAYS OUT, AS YOU MIGHT EXPECT, DIFFERENTLY.

7

8 **COUNCILMEMBER FLOREEN:** INDEED.

9

10 **MARC HANSEN:** YOU CAN HAVE PREFERENCES THAT -- THE MOST RADICAL
11 KIND OF PREFERENCE IS THE SHELTERED MARKET APPROACH, WHICH
12 SAYS THAT ONLY PEOPLE WHO MEET THE CRITERIA OF THE PROGRAM MAY
13 COMPETE. ALL OTHERS TAKE A SEAT. YOU'RE NOT GOING TO BE
14 ALLOWED INTO THE GAME. THAT HAS SIGNIFICANCE, LEGALLY, BECAUSE
15 THERE'S GENERALLY A TWO-STEP TEST THAT THE COURTS APPLY WHEN
16 THEY'RE LOOKING AT THESE PREFERENCES, ASSUMING THE PREFERENCE
17 TOUCHES ON--

18

19 **COUNCILMEMBER FLOREEN:** ASSUMING IT IS A PREFERENCE --

20

21 **MARC HANSEN:** YEAH, ASSUMING IT'S A PREFERENCE THAT TRIGGERS A
22 CONSTITUTIONAL CONCERN.

23

24 **COUNCILMEMBER FLOREEN:** YEAH.

25

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1 **MARC HANSEN:** NOT ALL PREFERENCES WILL TRIGGER A CONSTITUTIONAL
2 CONCERN BECAUSE THEY ARE NOT TOUCHING ON A SUSPECT CLASS, FOR
3 EXAMPLE RACE, NATIONAL ORIGIN, RELIGION AND SO FORTH, OR
4 THEY'RE NOT TOUCHING ON AN IMPORTANT RIGHT.

5

6 **COUNCILMEMBER FLOREEN:** RIGHT, SO WE'RE GENERALLY TALKING ABOUT
7 PRIVILEGES AND IMMUNITY.

8

9 **MARC HANSEN:** THE RIGHT TO TRAVEL, THE RIGHT TO WORK, THE RIGHT
10 TO -- BUT ONCE THEY START TOUCHING THOSE MATTERS OF
11 CONSTITUTIONAL CONCERN, THEN THE KIND OF PREFERENCE COMES INTO
12 PLAY.

13

14 **COUNCILMEMBER FLOREEN:** BUT FIRST HAVE YOU TO TOUCH IT, RIGHT?

15

16 **MARC HANSEN:** THAT'S CORRECT. HAVE YOU TO TOUCH SOMETHING OF
17 CONSTITUTIONAL CONCERN.

18

19 **COUNCILMEMBER FLOREEN:** AND IN THIS CASE, 90% OF ALL CONTRACTS
20 ARE DOLLARS. DON'T TOUCH IT, RIGHT?

21

22 **MARC HANSEN:** RIGHT.

23

24 **COUNCILMEMBER FLOREEN:** SO YOU HAVE TO FIND THAT CASE WHERE, I
25 DON'T KNOW, WHERE IT'S THAT LINE BETWEEN 11% AND 10% IN THE

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1 GLOBAL SENSE OF THINGS. AND I MEAN GLOBAL SENSE OF ALL, OF THE
2 CONTRACTS FOR EACH DEPARTMENT WHERE THAT MIGHT BE AN ISSUE.
3 AND WE'RE NOT SAYING WHERE THERE IS A TIE EVEN, THE LOCAL GUY
4 GETS THE BENEFIT, WHICH IS WHAT THEY SAY IN OTHER
5 CIRCUMSTANCES. I MEAN I REALLY WOULD DOUBT WHETHER THIS IS A
6 PREFERENCE ACCORDING TO THE PEOPLE IN VIRGINIA. DID YOU ASK,
7 DID YOU EXPLAIN THIS OR DID YOU ASK THEM, IF WE HAVE A LOCAL
8 PREFERENCE IN MONTGOMERY COUNTY, WILL YOU APPLY THAT TO
9 MONTGOMERY COUNTY BUSINESSES IN VIRGINIA? WHAT WAS THE
10 QUESTION?

11

12 **MARC HANSEN:** THE QUESTION WAS, WAS IF WE HAVE A LOCAL
13 PREFERENCE AND APPLY IT.

14

15 **COUNCILMEMBER FLOREEN:** WELL, DID YOU SAY, IF OUR PREFERENCE
16 PROGRAM IS, TO THE EXTENT IT IS A PREFERENCE, I GUESS I'D
17 LEAVE THE QUESTION OPEN. IF WE HAVE A REQUIREMENT THAT 10% OF
18 AN AGENCY'S PROCUREMENT BE DIRECTED TO LOCAL BUSINESSES, TO BE
19 DEFINED. DID YOU ASK THAT QUESTION?

20

21 **MARC HANSEN:** NO. WE DID NOT ASK WHETHER IT WAS--

22

23 **COUNCILMEMBER FLOREEN:** BECAUSE YOU--

24

25 **MARC HANSEN:** BECAUSE IT DOESN'T--

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1

2 **COUNCILMEMBER FLOREEN:** IT'S A DIFFERENT QUESTION THEN! NO.

3

4 **MARK HANSEN:** NO, IT'S NOT.

5

6 **COUNCILMEMBER FLOREEN:** I THINK IT IS.

7

8 **MARC HANSEN:** WELL, I RESPECTFULLY DISAGREE. BECAUSE THE ISSUE
9 IS YOU YOU CANNOT EVEN HAVE A 1% PREFERENCE OR A HALF A
10 PERCENTAGE IF YOU ARE TAKING AWAY SOMEBODY'S, AN IMPORTANT
11 RIGHT OR YOU'RE BASING THAT PREFERENCE ON A SUSPECT
12 CLASSIFICATION. YOU CAN ONLY DO THAT IF YOU HAVE A COMPELLING
13 STATE INTEREST OR, IN THE CASE OF IN THIS SITUATION, A
14 SIGNIFICANT GOVERNMENTAL PURPOSE THAT JUSTIFIES THE PROGRAM,
15 THEN THE AMOUNT OF THE PREFERENCE BECOMES RELEVANT AND IN
16 TERMS OF FITTING PROBLEM THAT YOU'VE IDENTIFIED.

17

18 **COUNCILMEMBER FLOREEN:** BUT THE PREFERENCE FITS IN THOSE CASES
19 TYPICALLY, I THINK, IS SOME KIND OF CREDIT ON A SCALE, TO
20 WEIGH THE BALANCE OF DECISION MAKING IN FAVOR OF ONE PARTY OR
21 ANOTHER. I'M HAVING TROUBLE IDENTIFYING WHO WOULD BE A
22 PLAINTIFF, IN OTHER WORDS. HOW YOU COULD GET TO THAT POINT,
23 GIVEN THE DIFFUSE NATURE OF THIS EXPECTATION AND REQUIREMENT?
24 BECAUSE IT'S NOT, YOU KNOW, YOU GET A 5% VETERANS' PREFERENCE.
25 WE KNOW WHAT THAT MEANS. THAT MEANS YOU GET AHEAD OF SOMEBODY

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1 ELSE IN A CLEAR AND STRAIGHTFORWARD WAY IN A VERY COMPETITIVE
2 SITUATION. THIS IS FAR LESS --

3

4 **COUNCILMEMBER PRAISNER:** ISN'T THIS A SET-ASIDE? IN WHICH CASE
5 --

6

7 **COUNCILMEMBER FLOREEN:** YEAH, BUT IT'S NOT JUST A SET-ASIDE.
8 IT'S NOT A SET-ASIDE OF A TOTAL CONTRACT.

9

10 **MARC HANSEN:** IT IS BECAUSE--

11

12 **COUNCILMEMBER PRAISNER:** IT IS.

13

14 **MARC HANSEN:** IT'S A SET-ASIDE OF A CONTRACT.

15

16 **COUNCILMEMBER FLOREEN:** OF OVERALL PROCUREMENT.

17

18 **COUNCILMEMBER PRAISNER:** NO. IT'S A SET-ASIDE OF A TOTAL
19 CONTRACT. 10% OF THE CONTRACTS MUST GO TO A LOCAL BUSINESS. IT
20 IS A SET-ASIDE. YOU MAY DISAGREE OR DISAGREE WITH THE
21 CONSEQUENCES OF IT, BUT YOU CAN'T ARGUE WITH WHAT IT IS. YOU
22 CAN ARGUE THAT SO WHAT. BUT IT IS A SET-ASIDE.

23

24 **MARC HANSEN:** YEAH, THAT IS MY ARGUMENT.

25

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1 **COUNCILMEMBER PEREZ:** ME, TOO. I AGREE WITH YOU.

2

3 **COUNCILMEMBER PRAISNER:** I HAVE DIFFERENCES OF OPINION BUT IT'S
4 A SET-ASIDE.

5

6 **COUNCILMEMBER FLOREEN:** I DO HAVE THE FLOOR. THE ISSUE IS
7 REALLY WHAT WAS THE QUESTION THAT WAS ASKED. AND I THINK IT --
8 THAT GENERATES A DIFFERENT RESPONSE DEPENDING ON THE QUESTION.
9 SO, I THINK IT'S AN INTERESTING DEBATE. I GUESS I WANTED TO
10 SAY THAT THAT'S REASON FOR ME TO DISCOUNT IT. THANKS.

11

12 **COUNCILMEMBER PEREZ:** OKAY. MR. DENIS.

13

14 **COUNCILMEMBER DENIS:** THANK YOU MR. PRESIDENT. THERE ARE NINE
15 MEMBERS OF THE COUNTY COUNCIL. THERE ARE NINE MEMBERS OF THE
16 SUPREME COURT. THAT DOES NOT MEAN THE COUNTY COUNCIL IS LIKE
17 THE SUPREME COURT, EVEN THOUGH SOMETIMES I FEEL LIKE SANDY
18 O'CONNOR OUT HERE BUT THAT'S [LAUGHTER] BUT YOU CAN NEVER TELL
19 WHAT A COURT IS GOING TO DO. THE MARYLAND COURT OF APPEALS
20 ONCE RULED THAT "SHALL" MEANS "MAY." SO YEAH, A COURT COULD
21 RULE THAT STATE MEANS COUNTY. I MEAN YOU NEVER CAN TELL. AND I
22 THINK THE BEST OR THE WORST EXAMPLE OF THAT, AND WHEN WHEN
23 SENATOR TIGNOR AND I WERE IN ANNAPOLIS. I DON'T KNOW, WERE YOU
24 THERE WHEN THOMAS LOWE WAS SPEAKER? WAS THAT -- OKAY. WELL,
25 TOMMY LOWE WAS THE SPEAKER OF THE HOUSE AND A DELEGATE FROM

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1 TALBOT COUNTY ONCE INTRODUCED A LOCAL BILL THAT APPLIED TO
2 TALBOT COUNTY AND OF COURSE IT PASSED AND THERE WAS A LAWSUIT
3 AND THE COURT OF APPEALS HAD A DECISION TO MAKE AND TOMMY LOWE
4 SAID, "I WAS THE AUTHOR OF THE BILL. I'M THE ONLY DELEGATE
5 FROM TALBOT COUNTY. I WAS THE SPEAKER OF THE HOUSE. I KNOW
6 EXACTLY WHAT THIS BILL MEANS." THE COURT OF APPEALS SAYS NO
7 YOU DON'T. WE KNOW BETTER. IN OTHER WORDS YOU COULD NEVER TELL
8 THE WAY A COURT IS GOING TO RULE. YOU KNOW I HAD A HUNCH ABOUT
9 THIS IN COMMITTEE AND I WAS HOPING THAT BEFORE COUNCIL, BEFORE
10 THE FULL COUNCIL THERE WOULD REALLY BE MORE EVIDENCE ON THE
11 SUBSTANCE OF THE ISSUE AS TO WHETHER OR NOT WE WANT TO DO THIS
12 AND WHETHER OR NOT IT'S A GOOD IDEA. BUT I REALLY DO, I'VE
13 GOTTEN THE DISTINCT IMPRESSION BY THE VARIOUS LEGALISTIC
14 DISCUSSIONS BEFORE THE COUNCIL, WHICH I THINK HAVE DOMINATED
15 DISCUSSION OF THE ISSUE, UNFORTUNATELY. AND THERE'S REALLY
16 BEEN KIND OF LIKE A TRANSFERENCE HERE THAT MAYBE SOME PEOPLE
17 JUST DON'T WANT TO DO IT AND SO YOU HAVE ALL OF THESE LEGAL
18 OPINIONS. AND SO I CHANGED MY MIND ON THIS, ACTUALLY. I THINK
19 THAT THIS IS A -- THIS IS SOMETHING THAT I WOULD LIKE TO DO. I
20 HAD A HUNCH THAT MAYBE IT WAS NOT A GOOD IDEA BUT THERE REALLY
21 WAS NO EVIDENCE. AND THE EVIDENCE HAS NOT BEEN FORTHCOMING
22 BEFORE THE COUNCIL. EITHER IT'S SOMETHING WE WANT TO DO, OR
23 IT'S SOMETHING THAT WE DON'T WANT TO DO AND THERE CERTAINLY
24 HAS BEEN ENOUGH OPPORTUNITY FOR PEOPLE OUT THERE WHO MIGHT BE
25 ADVERSELY AFFECTED TO LET US KNOW, FROM THEIR EXPERIENCE, AS

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1 TO WHETHER OR NOT IT WAS SOMETHING THAT THEY WANTED US TO DO,
2 OR SOMETHING THAT THEY THOUGHT WAS A GOOD IDEA OR A BAD IDEA.
3 BUT ALL WE'VE HAD IS THE LEGALISTIC DISCUSSIONS, SO THAT KIND
4 OF LEAVES ME COLD TO HAVE US SIMPLY DEBATING, YOU KNOW,
5 TECHNICAL, LEGAL POINTS AS OPPOSED TO THE SUBSTANCE OF THE
6 ISSUE, BASICALLY WHETHER WE WANT TO DO IT AND JUST, YOU KNOW,
7 TAKE OUR CHANCES IN COURT.

8

9 **COUNCILMEMBER PEREZ:** MR. SUBIN?

10

11 **COUNCILMEMBER SUBIN:** WELL, I HATE TO BE SIMPLISTIC ABOUT THIS,
12 BUT I'M GOING TO BE. MRS. PRAISNER IS ABSOLUTELY RIGHT. THIS
13 IS A SET-ASIDE AND IT IS A SET-ASIDE PREDICATED UPON
14 MONTGOMERY COUNTY ACTING AS A MARKET PARTICIPANT. AND AS LONG
15 AS IT DOES NOT EXCLUDE FOLKS BASED ON THE FACT THAT THEY ARE A
16 SUSPECT CLASS IT BECOMES A POLICY ISSUE. AND THAT'S ALL. IT IS
17 NOT A LEGAL ISSUE. UNLESS SOMEBODY CAN COME AND SAY THAT WE
18 WERE EXCLUDED AND WE ARE A MEMBER OF A SUSPECT CLASS, IT'S A
19 POLICY ISSUE. PURELY AND SIMPLY. AND I AGREE WITH THE POLICY
20 AS SET FORTH BY THE COUNCIL PRESIDENT.

21

22 **COUNCILMEMBER PEREZ:** MR. SILVERMAN?

23

24 **COUNCILMEMBER SILVERMAN:** THANK YOU, MR. PRESIDENT. I
25 APPRECIATE THE HARD WORK OF THE COUNTY ATTORNEY'S OFFICE. I

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1 PARTICULARLY AM LOOKING FORWARD TO OUR DISCUSSION ON THE
2 ANIMAL MATTERS SO WE CAN HAVE A DISCUSSION ABOUT WHETHER A
3 BITE DOES OR DOES NOT HAVE TO BREAK THE SKIN TO BE
4 UNCONSTITUTIONAL. I THOUGHT THAT THAT WAS THE BEST LINE IN
5 HERE.

6

7 **COUNCILMEMBER SUBIN:** MCGRUFF WILL BE TESTIFYING TO THAT
8 SECTION. [LAUGHTER]

9

10 **COUNCILMEMBER PRAISNER:** HE DOESN'T BITE. HE JUST BARKS.

11

12 **COUNCILMEMBER SUBIN:** HE DOESN'T, RIGHT.

13

14 **COUNCILMEMBER SILVERMAN:** WE HAVE, AS MR. DENIS APPROPRIATELY
15 SAID, GOTTEN FAR AWAY FROM THE DISCUSSION ABOUT THE MERITS OF
16 THE PROPOSAL, WHICH IS WHAT DROVE MANY OF US TO SPONSOR THE
17 LEGISLATION. BUT HERE'S WHERE I AM ON THE LEGAL ISSUE AND IT'S
18 IN HERE SOMEWHERE BUT I BELIEVE THE PROVERBIAL FOUR CORNERS
19 TEST HAS NOT BEEN MET HERE, WHICH I THINK WAS IN YOUR OPINION
20 MARC, NOT THIS ONE BUT THE PRIOR ONE, WHICH IS WE'RE IN A
21 GUESSING GAME. AND SOMETIMES WE GO WITH WHAT THE COUNTY
22 ATTORNEY'S OPINION IS. SOMETIMES WE DON'T. SOMETIMES WE GO
23 WITH OUR OWN COUNSEL AND SOMETIMES WE DON'T.

24

25 **COUNCILMEMBER PRAISNER:** SO WE'RE BATTING 1,000 ON THIS.

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1
2 **COUNCILMEMBER SILVERMAN:** BUT, RIGHT. BUT WHAT IS AT LEAST
3 CLEAR TO ME IS THAT THERE IS NO CASE IN MARYLAND ON POINT. AND
4 THAT'S SORT OF HOW I GAUGE THIS ISSUE. YOU KNOW, YOU'RE GIVING
5 US YOUR BEST OPINION. IT DOES NOT, IN MY MIND, REACH A LEVEL
6 OF APPLICABILITY TO THE LAW THAT IS IN FRONT OF US, BASED ON
7 WHAT HAS BEEN BEFORE THE MARYLAND COURT OF APPEALS. AND WHEN
8 YOU PUT THAT IN CONJUNCTION WITH, AS MY COLLEAGUE MR.
9 LEVENTHAL HAS SAID, UNANIMOUS VIEWS OF THOSE WHO HAVE WEIGHED
10 IN ON THIS LEGISLATION, A UNANIMOUS POSITION THAT THEY WOULD
11 LIKE TO SEE THE LEGISLATION ENACTED. IT IS, WHILE NOT
12 DISPOSITIVE, IT IS HARD TO ARGUE THAT WE'RE DOING A DISSERVICE
13 TO THE SMALL BUSINESS, THE LOCAL SMALL BUSINESSES OF
14 MONTGOMERY COUNTY IF WE ENACT THE LEGISLATION WITH THE TERM
15 "LOCAL" IN IT. WHAT IS GOING TO HAPPEN? WE'RE GOING TO SEE. AS
16 WE DO SOMETIMES, AS WE DID ON THE SMOKING BAN. WE HAD A
17 LAWSUIT FILED. THE LAWSUIT, YOU KNOW, WENT THROUGH THE PROCESS.
18 IT LINGERED IN THE COURT OF APPEALS, ETC., ETC. THERE MAY BE A
19 LAWSUIT. IT'LL BE FILED BY, YOU KNOW, AN OUT OF COUNTY
20 BUSINESS WHO SAYS THAT THIS IS UNFAIR AND WE'LL SEE WHAT
21 HAPPENS IF THEY CHOOSE TO GO DOWN THAT PATH. WE'RE ALSO GOING
22 TO SEE WHETHER OR NOT WE HEAR FROM THE BUSINESS COMMUNITY IN
23 MONTGOMERY COUNTY THAT SOMEHOW THEY ARE NOW BEING PREJUDICED
24 WHEN THEY GO APPLY FOR CONTRACTS IN THE STATE OF VIRGINIA, AND
25 WE'LL SEE WHETHER THAT ENDS UP BEING THE CASE OR NOT. BUT TO

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1 ME, WHEN I THINK ABOUT THE LEGAL ISSUES, I THINK WHAT IS CLEAR,
2 IS THAT IT ISN'T CLEAR. AND TO ME, THE ABSENCE OF A CASE ON
3 POINT IS VERY, VERY PERSUASIVE TO ME. SO IF IT HASN'T ALREADY
4 BEEN, I'M HAPPY TO SECOND MR. LEVENTHAL'S MOTION AND WE'LL GO
5 FROM THERE. THANK YOU.

6

7 **COUNCILMEMBER PEREZ:** OKAY. MR. SUBIN?

8

9 **COUNCILMEMBER SUBIN:** I GUESS THE ONLY THING I'D LIKE TO ADD TO
10 WHAT MR. SILVERMAN SAID, AND THIS IS REALLY FOR THE BUSINESS
11 COMMUNITY AND MR. ARRESH CAN ATTEST THAT THE BUSINESS
12 COMMUNITY HAS BEEN ASKING FOR THIS SINCE AT LEAST 1980 OR 1982
13 OR SO, UNDERSTANDING FULL WELL THAT THERE COULD BE RETRIBUTION
14 FROM OTHER JURISDICTIONS. IF IT HAPPENS, GUYS, IT HAPPENS, YOU
15 KNOW. I WOULD NOT SUGGEST RUNNING BACK TO US AFTER THIS
16 EXTENDED DEBATE ABOUT POLICIES AND LEGALITIES AND ANYTHING
17 ELSE, TO COME BACK IN AND GET ANOTHER BILL TO UNDO THIS BILL.
18 YOU'VE ASKED FOR IT. APPARENTLY A MAJORITY OF THE COUNCIL HAS
19 NOW SEEN IT YOUR WAY. DON'T COME CRAWLING BACK BECAUSE, I'LL
20 TELL YA, I WON'T BE SYMPATHETIC. I'M SYMPATHETIC TO THE CAUSE
21 NOW. I WON'T BE SYMPATHETIC THEN. AND I GUARANTEE YOU, IF
22 PEOPLE SEE THAT THIS IS DEEMED CONSTITUTIONAL OR WHATEVER ELSE,
23 AND I BELIEVE THAT IT WOULD BE HELD TO BE CONSTITUTIONAL,
24 THERE ARE OTHER FOLKS WHO ARE GOING TO HAVE BILLS OUT THERE.
25 THEY'RE GOING TO TO THE SAME THING THAT WE'RE DOING, WHICH IS

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1 BUILDING A FENCE AROUND OUR FOLK AND PROTECTING OUR FOLK.

2 CAVEAT EMPTOR.

3

4 **COUNCILMEMBER PEREZ:** RES IPSA LOQUITUR.

5

6 **COUNCILMEMBER SUBIN:** THAT TOO.

7

8 **COUNCILMEMBER PRAISNER:** CAN WE VOTE? BECAUSE THERE ARE OTHER
9 ISSUES ON THE BILL.

10

11 **COUNCILMEMBER KNAPP:** I WOULD RESPECTFULLY I GUESS DISAGREE
12 WITH MY COLLEAGUE AT THE OTHER END OF THE DIAS JUST BECAUSE I
13 THINK WE'RE MAKING DECISIONS HERE WITHOUT A LOT OF INFORMATION.
14 AND SO I FULLY EXPECT THAT BE IT A LEGAL CHALLENGE OR THE FACT
15 THAT WE JUST LEARN MORE ABOUT WHY AND HOW OUR SMALL BUSINESSES
16 ARE AND ARE NOT DOING MORE BUSINESS IN THE COUNTY, I THINK IT
17 WILL PRECIPITATE THE NEED TO COME BACK AND REVISIT THIS IN THE
18 NEXT COUPLE YEARS JUST BECAUSE WE'RE GOING TO HAVE BETTER
19 INFORMATION AND HOPEFULLY WE CAN REFINE IT. AND IT'S GOING TO
20 SUNSET SO WE CAN [INAUDIBLE] TO MAKE IT BETTER. AND SO I THINK
21 WE'RE GOING TO GET A LITTLE MORE INFORMATION WHICH WILL HELP
22 US TO THIS BETTER AND HELP OUR SMALL BUSINESSES BETTER. SO, I
23 UNDERSTAND WHAT YOU'RE SAYING BUT I THINK IT'S IMPORTANT TO
24 RECOGNIZE I THINK WE WILL LIKELY END UP BACK DISCUSSING THIS
25 SOONER --

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1

2 **COUNCILMEMBER SUBIN:** CHANGES ARE CHANGES. BUT GETTING RID OF
3 IT BECAUSE YOU KNOW SOMETHING IS GOING TO HAPPEN AND
4 RATIONALLY IT'S GOING TO HAPPEN, IS A DIFFERENT ISSUE.

5

6 **COUNCILMEMBER PEREZ:** WELL, THANK YOU. I THINK THIS HAS BEEN A
7 -- NOT ONLY TODAY BUT PRIOR TO TODAY -- HAS BEEN A HEALTHY
8 DEBATE AND AN IMPORTANT DEBATE AND I CERTAINLY APPRECIATE THE
9 TIME AND EFFORT THAT THE COUNTY ATTORNEY'S OFFICE HAS PUT IN,
10 DR. TIGNOR'S OFFICE HAS PUT IN AND OUR OWN COUNCIL STAFF HAVE
11 PUT IN. I KNOW FOR ME AND ALL OF US, WE WANT TO EXPAND
12 OPPORTUNITIES FOR SMALL BUSINESSES, THAT THERE IS UNANIMITY ON
13 THAT QUESTION. WE'RE ALWAYS LOOKING FOR WAYS TO EXPAND
14 OPPORTUNITIES FOR OUR SMALL BUSINESSES HERE IN MONTGOMERY
15 COUNTY, BECAUSE THERE IS A MUTUAL RECOGNITION OF THE VITAL
16 IMPORTANCE OF SMALL BUSINESS'S THE ENGINE OF MONTGOMERY
17 COUNTY'S ECONOMY. AND THIS BILL REFLECTS AN EFFORT TO DO JUST
18 THAT, TO LEVEL THE PLAYING FIELD FOR SMALL BUSINESSES AND
19 EXPAND OPPORTUNITIES. WE HAVE HONEST DIFFERENCES OF OPINION
20 ABOUT THE EFFECT OF ONE OF THESE PROVISIONS AND I RESPECT THE
21 CONCERNS THAT SOME OF MY COLLEAGUES HAVE RAISED. I DO BELIEVE
22 THAT THE SUNSET PROVISION WILL ALLOW US TO SPEND SOME TIME
23 ANALYZING WHETHER THE PREDICTIONS TURN INTO REALTY. WE SEEM TO
24 FREQUENTLY HAVE THESE DISCUSSIONS IN THE CONTEXT OF CUTTING
25 EDGE WORK THAT WE'RE DOING, WHETHER IT'S THE SMOKING BAN WHERE

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1 YOU HAVE PREDICTIONS OF WHOLESALE CLOSURE OF RESTAURANTS.
2 WE'RE HAVING THIS DEBATE IN CONNECTION WITH LENDING
3 DISCRIMINATION, WILL IT LEAD TO LENDERS WANTING TO LEAVE THE
4 COUNTY OR RESTRICT LENDING TO THE COUNTY?

5

6 **COUNCILMEMBER DENIS:** WE HAVE IT RIGHT NOW.

7

8 **COUNCILMEMBER PEREZ:** WE HAVE IT HERE. AND WE HAVE THOSE
9 DISCUSSIONS. AND WE'LL CONTINUE TO HAVE THOSE DEBATES. I THINK
10 A NUMBER OF POINTS THAT HAVE COME UP IN THIS DEBATE ARE
11 CRITICAL FOR FOLLOWING UP. I DON'T THINK OUTREACH IS SOLELY A
12 COUNTY RESPONSIBILITY. I THINK OUTREACH IS GOING TO BE THE
13 RESPONSIBILITY OF THE CHAMBERS OF COMMERCE AND OTHER
14 STAKEHOLDERS IN THE COMMUNITY. AND IF IT REMAINS SOLELY A
15 RESPONSIBILITY OF COUNTY GOVERNMENT, I PREDICT THAT MR.
16 KNAPP'S PREDICTIONS WILL TURN OUT TO BE CORRECT ABOUT THE
17 CHALLENGES THAT WE CURRENTLY FACE. SO THIS IS A SHARED
18 RESPONSIBILITY, GETTING THE WORD OUT. AND I LOOK FORWARD TO
19 SHARING THAT RESPONSIBILITY WITH MEMBERS OF THE BUSINESS
20 COMMUNITY. I ALSO LOOK FORWARD TO WORKING WITH MR. KNAPP TO
21 CRAFT SOME LANGUAGE IN THE EVENT THAT WE DON'T REACH THE 10%
22 THRESHOLD BECAUSE THESE ARE GOODS AND SERVICES THAT ARE
23 NECESSARY FOR COUNTY GOVERNMENT TO OCCUR. SO THAT'S SOMETHING
24 WE'LL TAKE UP SEPARATELY BECAUSE IT'S NOT AMENDED TO THIS
25 MOTION. BUT I DO BELIEVE THAT THIS IS NOT THE FIRST NOR THE

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1 LAST TIME WE WILL DEAL WITH A ISSUE WHERE THE LEGAL ISSUES ARE
2 MUDDLED AND PEOPLE HAVE MADE THOSE POINTS AND I -- YOU GATHER
3 YOUR INFORMATION AND YOU MAKE THE BEST JUDGMENT THAT YOU CAN
4 MAKE, GIVEN THE INFORMATION YOU HAVE. AND WHETHER IT'S
5 CANADIAN DRUGS, OR WHETHER IT'S CABLE MODEM REGS OR WHETHER
6 IT'S SMALL-BUSINESS REFORM AND I THINK WE'VE FOLLOWED THAT
7 ADVICE EVERY SINGLE TIME, WHERE WE HAVE GATHERED THE
8 INFORMATION. WE'VE HAD A SPIRITED DEBATE AND WE'VE MADE A
9 JUDGMENT THAT WE FEEL IS IN THE BEST INTEREST OF THE PUBLIC.
10 SO MR. LEVENTHAL'S MOTION IS ON THE TABLE. IT'S BEEN DULY
11 SECONDED AND IT WOULD -- I THINK EVERYBODY UNDERSTANDS WHAT IT
12 WOULD DO, SO

13
14 **COUNCILMEMBER PRAISNER:** OVER AND OVER.

15
16 **COUNCILMEMBER LEVENTHAL:** A QUICK CLARIFICATION BEFORE WE VOTE.
17 I NOTICED THAT ON CIRCLE 7, LINE 152, THE M.F.P. COMMITTEE DID
18 NOT DELETE THE WORD "LOCAL" BECAUSE THE WORD "LOCAL" DID NOT
19 APPEAR AT THAT PLACE IN THE BILL, BUT THIS MOTION WOULD PLACE
20 LOCAL THERE AS WELL. SO, WE'RE VOTING TO ADD LOCAL IN EVERY
21 PLACE WHERE THE M.F.P. COMMITTEE REMOVED IT AS WELL AS TO ADD
22 LOCAL ON CIRCLE 7, LINE 152.

23
24 **COUNCILMEMBER PEREZ:** OKAY. THAT'S A RELEVANT AMENDMENT. YEP.
25 OKAY. MADE AND SECONDED. ALL THOSE IN FAVOR SIGNIFY BY RAISING

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1 YOUR HANDS. MR. DENIS, MS. FLOREEN, MR. SUBIN, MR. SILVERMAN,
2 MYSELF, MR. LEVENTHAL, MR. KNAPP. OPPOSED, MS. PRAISNER, MR.
3 ANDREWS. IT PASSES 7 TO 2. THERE ARE A--

4

5 **COUNCILMEMBER PRAISNER:** YEAH, THERE ARE A COUPLE OF OTHER
6 THINGS THAT NEED TO BE -- THERE ARE MORE AMENDMENTS IN 10
7 MINUTES.

8

9 **COUNCILMEMBER LEVENTHAL:** I THINK THAT WE CAN TAKE CARE OF THIS
10 VERY, VERY RAPIDLY.

11

12 **COUNCILMEMBER PEREZ:** YEAH. LET'S MOVE TO THE -- CAN WE MOVE TO
13 THE NON-PROFIT GRANTS, MRS. PRAISNER, IS THAT OKAY?

14

15 **COUNCILMEMBER PRAISNER:** SURE. WHATEVER. I DON'T KNOW IF STAFF
16 HAS COMMENTS ON THE NONPROFIT GUIDANCE. I THOUGHT WE HAD
17 ADJUSTED THAT ISSUE BUT NOW WE MAY HAVE TO MAKE MORE
18 MODIFICATIONS.

19

20 **SPEAKER:** ON LINE 124 THERE IS A PROVISION FOR THE CHIEF
21 ADMINISTRATIVE OFFICER TO WAIVE THE APPLICATION OF THE BILL
22 BUT IT'S ON A CASE BY CASE BASIS. SO, IF YOU WANT TO BUILD IN
23 SOMETHING FOR--

24

25 **COUNCILMEMBER LEVENTHAL:** THAT'S ANOTHER ONE.

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1

2 **SPEAKER:** A SPECIFIC MARKET ISSUE --

3

4 **COUNCILMEMBER PRAISNER:** RIGHT.

5

6 **SPEAKER:** AS COUNCILMEMBER KNAPP WAS TALKING ABOUT.

7

8 **COUNCILMEMBER LEVENTHAL:** NO. I'M SORRY. MAY I, MISTER
9 PRESIDENT?

10

11 **COUNCILMEMBER PEREZ:** YES, SURE.

12

13 **COUNCILMEMBER LEVENTHAL:** OKAY. ON CIRCLE 5, LINE 93 THE TOTAL
14 DOLLAR VALUE OF PROCUREMENTS BY A USING DEPARTMENT DOES NOT
15 INCLUDE A NON-COMPETITIVE CONTRACT AWARD MADE UNDER SECTION
16 11B-14. IN THE COUNTY ATTORNEY'S OPINION DOES THAT ADDRESSED
17 THE PROBLEM THAT HAD BEEN RAISED WITH ME BY THE DEPARTMENT OF
18 HEALTH AND HUMAN SERVICES? ARE WE DONE AS A RESULT OF THAT OR
19 IS MORE NEEDED?

20

21 **COUNCILMEMBER PRAISNER:** NO, BECAUSE NOT ALL NON-PROFITS ARE
22 NON-COMPETITIVE.

23

24 **COUNCILMEMBER LEVENTHAL:** OKAY. VERY GOOD. NEXT QUESTION THEN,
25 ON CIRCLE 102 --

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1

2 **COUNCILMEMBER PRAISNER:** I THINK. I DON'T KNOW. I'M NOT THE
3 COUNTY ATTORNEY'S OFFICE.

4

5 **SPEAKER:** THAT'S CORRECT. THERE ARE SOME NONPROFITS WHO HOLD
6 CONTRACTS UNDER A COMPETITIVE PROCESS.

7

8 **COUNCILMEMBER PRAISNER:** THAT ARE COMPETITIVE. AND THERE MAY BE
9 MORE.

10

11 **COUNCILMEMBER LEVENTHAL:** OKAY. VERY GOOD. NOW, IN MY MEMO,
12 WHICH IS ON WHAT PAGE, SONYA? WHERE'S MY MEMO?

13

14 **SONJA HEALY:** 105. STARTING ON 105.

15

16 **COUNCILMEMBER LEVENTHAL:** OKAY. ON CIRCLE 106 THE STAFF DRAFTED
17 FOR ME AN AMENDMENT, CIRCLE 106, STATING THE TOTAL DOLLAR
18 VALUE OF PROCUREMENTS DOES NOT INCLUDE THE VALUE OF ANY
19 CONTRACT TO WHICH THIS ARTICLE DOES NOT APPLY BECAUSE OF A
20 CONFLICT WITH A STATE OR FEDERAL LAW, OR A GRANT REQUIREMENT,
21 A PREEXISTING CONTRACT, A NON-COMPETITIVE CONTRACT, THAT'S
22 ALREADY THERE, A PUBLIC ENTITY, OR EMERGENCY PROCUREMENT OR
23 WAIVERS. WHAT ARE THOSE WAIVERS?

24

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1 **SONYA HEALY:** IT CAN BE A CASE BY CASE BASIS, AS I JUST
2 DESCRIBED.

3

4 **COUNCILMEMBER LEVENTHAL:** OKAY. WILL THAT LANGUAGE, MR. HANSEN,
5 ADDRESS THE CONCERN, WITH RESPECT TO NONPROFIT CONTRACTS, THE
6 LANGUAGE IN MY MEMO?

7

8 **MARC HANSEN:** THAT'S ON CIRCLE 106?

9

10 **COUNCILMEMBER LEVENTHAL:** CIRCLE 106 OF THE PACKET.

11

12 **MARC HANSEN:** NUMBER FIVE?

13

14 **COUNCILMEMBER LEVENTHAL:** IT'S ACTUALLY ITEM THREE.

15

16 **MARC HANSEN:** C1-3. I THOUGHT YOU WERE TALKING ABOUT C-5.

17

18 **COUNCILMEMBER PRAISNER:** I DON'T THINK SO.

19

20 **SONYA HEALY:** THAT'S ALLOWING THE CHIEF ADMINISTRATIVE OFFICER
21 TO WAIVE.

22

23 **COUNCILMEMBER PRAISNER:** I DON'T THINK SO. I DON'T THINK IT
24 DOES.

25

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1 **SONYA HEALY:** IT DOESN'T WALL OFF THE NON-PROFITS.

2

3 **COUNCILMEMBER LEVENTHAL:** IT DOESN'T COVER ALL NON-PROFITS?

4

5 **COUNCILMEMBER PRAISNER:** IT DOESN'T WALL OFF NON-PROFITS, WHICH
6 I THINK IS WHAT YOU WANT TO DO, IS TO ELIMINATE ANY CONTRACT
7 FROM CONSIDERATION THAT IS ASSOCIATED WITH A NON-PROFIT. IS
8 THAT WHAT YOU'RE TRYING TO DO?

9

10 **COUNCILMEMBER LEVENTHAL:** OKAY. SO -- SO WE NEED SOME DRAFTING
11 HERE.

12

13 **COUNCILMEMBER PEREZ:** LET ME MAKE SURE THAT I UNDERSTAND -- I
14 THINK THE POLICY GOAL HERE -- I THINK THAT IT'S NOT,
15 NECESSARILY, NOT JUST H.H.S. GRANTS, BUT IT COULD BE --

16

17 **COUNCILMEMBER PRAISNER:** NO, NON-PROFIT, ANY NON-PROFIT.

18

19 **COUNCILMEMBER PEREZ:** IT COULD BE D.H.C.A., ARTS, RECREATION,
20 THESE SORTS OF GRANTS THAT, TO THE EXTENT THAT DEPARTMENT OF
21 RECREATION --

22

23 **COUNCILMEMBER PRAISNER:** THEY'RE NOT GRANTS. THEY'RE ALL
24 CONTRACTS.

25

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1 **COUNCILMEMBER PEREZ:** CONTRACTS. RIGHT. TO THE EXTENT THAT THE
2 DEPARTMENT OF RECREATION IS PURCHASING WIDGETS THE INTENT
3 WOULD BE THAT THOSE WOULD BE THAT THOSE WOULD BE COVERED UNDER
4 PROCUREMENT. TO THE EXTENT THAT THEY ARE ENGAGING IN A
5 CONTRACT WITH THE A.B.C., THE TAKOMA PARK, HOWARD COHN, TO DO
6 --

7
8 **COUNCILMEMBER LEVENTHAL:** SOCCER.

9
10 **COUNCILMEMBER PEREZ:** SOCCER IN MONTGOMERY COUNTY PARKS, THEN
11 THAT WOULD NOT BE COVERED BY THIS. THAT'S THE DISTINCTION
12 WE'RE TRYING TO MAKE. I MEAN THE RECREATION DEPARTMENT IS A
13 PURCHASER OF GOODS AND SERVICES, YOU KNOW. THEY BUY COMPUTERS.
14 THEY BUY OTHER THINGS. BUT DO YOU UNDERSTAND THE DISTINCTION
15 I'M TRYING TO MAKE?

16
17 **SPEAKER:** I THINK THAT'S WHAT WE'RE GETTING AT.

18
19 **COUNCILMEMBER LEVENTHAL:** WELL, IT SEEMS TO ME, IF I MAY, THAT
20 WHAT THE STAFF DRAFTED FOR ME -- I'M NOT TALKING -- WE DO NEED
21 TO GET TO THE ISSUE OF ELIMINATING THE DOLLAR CAP BUT THAT'S
22 NOT WHAT WE'RE TALKING ABOUT RIGHT NOW. IF YOU LOOK AT CIRCLE
23 106 THE STAFF DRAFTED ON THE PROPOSED AMENDMENT IN MY MEMO ON
24 CIRCLE 106 A NUMBER OF SITUATIONS WHICH WERE INTENDED TO BE
25 EXEMPT. IT SEEMS TO ME THAT IF WE ADD TWO MORE WE WOULD

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1 ADDRESS BOTH MY ISSUE AND MR. KNAPP'S ISSUE. IF WE SIMPLY ADD
2 ANY CONTRACT WITH AN ORGANIZATION THAT IS INCORPORATED UNDER
3 INTERNAL REVENUE CODE SECTION 501-C3 THEN THAT WOULD EXEMPT
4 ANY NONPROFIT AND THAT WOULD BE THAT. HAVE I GOT STAFF WITH ME
5 ON THIS?

6

7 **COUNCILMEMBER PEREZ:** COULD YOU RUN THAT ONE BY ME AGAIN? I'M
8 SORRY. IT WOULD EXCLUDE --

9

10 **COUNCILMEMBER LEVENTHAL:** YEAH. IF THE ISSUE IS THAT WE ARE
11 ONLY TALKING ONLY ABOUT CONTRACTS WITH FOR-PROFIT BUSINESSES
12 AND WE ARE NOT TALKING ABOUT CONTRACTS WITH CHARITABLE
13 ORGANIZATIONS, ARTS ORGANIZATIONS OR, YOU KNOW, COMMUNITY
14 RECREATIONAL ORGANIZATIONS, THEN IF YOU -- AND I UNDERSTAND
15 THAT STAFF ANTICIPATED, SONYA AND MIKE ANTICIPATED THAT THERE
16 WERE SOME ADMINISTRATIVE DIFFICULTIES IN IMPLEMENTING THIS
17 WITH RESPECT TO GRANT REQUIREMENTS, PREEXISTING CONTRACTS,
18 NON-COMPETITIVE CONTRACTS, WHICH WAS ALREADY IN THE BILL,
19 GOVERNMENT RELATIONSHIPS, EMERGENCIES, OR CERTAIN WAIVERS ON A
20 CASE BY CASE BASIS IT SEEMS TO ME WE COULD ADD NUMBER SIX,
21 CONTRACT EXECUTED WITH A CORPORATION UNDER INTERNAL REVENUE
22 CODE SECTION 501-C3. THAT'S ONE POSSIBILITY.

23

24 **COUNCILMEMBER PEREZ:** BUT THE PROBLEM WOULD BE, WITH THAT
25 APPROACH IS THAT IF WE BUY WIDGETS, THE REC DEPARTMENT PUTS

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1 OUT AN R.F.P. TO BUY WIDGETS, WHAT ARE YOU -- ARE YOU SAYING
2 IF A NONPROFIT PUTS IN A BID TO COMPETE WITH FOR-PROFIT
3 ORGANIZATIONS THAT THAT AUTOMATICALLY SPINS THAT PROCUREMENT
4 OUTSIDE OF THE PROGRAM?

5

6 **COUNCILMEMBER LEVENTHAL:** WELL --

7

8 **SPEAKER:** THAT'S NOT THE INTENT.

9

10 **COUNCILMEMBER PEREZ:** THAT'S NOT THE INTENT BUT WOULD THAT BE
11 THE EFFECT?

12

13 **COUNCILMEMBER LEVENTHAL:** WELL, LOOK. I'M NOT, I MEAN I'M
14 ASKING YOU, MARC, TO TELL ME WHAT IS THE PROBLEM. I'VE BEEN
15 TOLD THAT THERE IS A PROBLEM WHERE YOU HAVE A DEPARTMENT WITH
16 A LOT OF CONTRACTS WITH NON-PROFITS. IF THERE IS NOT A PROBLEM
17 AND IF THE NON-COMPETITIVE CONTRACT AWARD, WHICH AS FAR AS I'M
18 AWARE, ALL OF OUR CONTRACTS IN H.H.S. WITH SERVICE PROVIDERS
19 ARE THOSE --

20

21 **COUNCILMEMBER PRAISNER:** NO, THAT'S NOT TRUE, AT ALL.

22

23 **COUNCILMEMBER LEVENTHAL:** OKAY.

24

25 **COUNCILMEMBER PRAISNER:** THEY ARE COMPETITIVE.

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1

2 **COUNCILMEMBER LEVENTHAL:** OKAY. WELL, MAYBE THE COUNTY ATTORNEY
3 CAN ARTICULATE FOR ME WHAT IS THE CONCERN THAT HAS BEEN
4 EXPRESSED BY THE EXECUTIVE BRANCH ABOUT THE APPLICATION OF
5 THIS TO CONTRACTS WITH NON-PROFITS OR MAYBE THE CHAIR OF THE
6 M.F.P. COMMITTEE CAN. OR MAYBE THERE ISN'T A CONCERN.

7

8 **SPEAKER:** MY UNDERSTANDING OF THE CONCERN WAS IT WOULD BE
9 DIFFICULT FOR THEM TO MEET THE 10% LEVEL --

10

11 **COUNCILMEMBER PRAISNER:** RIGHT.

12

13 **SPEAKER:** BECAUSE SO MANY OF THEIR CONTRACTS WERE WITH
14 ORGANIZATIONS THAT RECEIVED IT ON A NON-COMPETITIVE BASIS. AND
15 MY UNDERSTANDING IS THAT'S WHY WE INSERTED --

16

17 **COUNCILMEMBER LEVENTHAL:** THE NON-COMPETITIVE LANGUAGE--

18

19 **SPEAKER:** THE REFERENCE TO 11-B.

20

21 **COUNCILMEMBER LEVENTHAL:** YEAH, WHICH IS ALREADY IN THE BILL.

22

23 **SPEAKER:** [INAUDIBLE] AND WE THOUGHT ABOUT THE COMPETITIVE BUT
24 WE THOUGHT WHY WOULD WE EXCLUDE THAT SINCE A NONPROFIT CAN
25 COMPETE ON THAT AND THEY'RE LIKELY TO [INAUDIBLE] ANYWAY.

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1

2 **COUNCILMEMBER LEVENTHAL:** FINE. OKAY. FINE. SO -

3

4 **COUNCILMEMBER PRAISNER:** YOUR POINT IS THAT THE C.A.O. CAN
5 WAIVE THE AMOUNT, THE TOTAL DOLLAR AMOUNT, BY EXCLUDING OUT
6 THOSE SITUATIONS AND THAT IT'S COVERED UNDER THAT CATEGORY.

7

8 **SPEAKER:** WELL, WHAT I WAS SAYING IS ON PAGE 106 UNDER
9 PARAGRAPH NUMBER THREE, C3, A NON-COMPETITIVE CONTRACT AWARD
10 MADE UNDER SECTION 11-D14 --

11

12 **COUNCILMEMBER LEVENTHAL:** RIGHT. THAT'S ALREADY IN THE BILL.

13

14 **SPEAKER:** THAT'S RIGHT. THAT WAS INTENDED TO ADDRESS THE
15 SITUATION H.H.S. AND THAT OTHER DEPARTMENTS MIGHT HAVE IN
16 HAVING, YOU KNOW, A LARGE PORTION OF THEIR CONTRACTS.

17

18 **COUNCILMEMBER LEVENTHAL:** I'M COMFORTABLE THAT THAT ISSUE HAS
19 BEEN SATISFIED THEN. DR. TIGNOR, DID YOU WANT TO SAY
20 SOMETHING?

21

22 **DR. TIGNOR:** YES. I JUST WANTED TO -- I'LL WAIT UNTIL YOU
23 FINISH WITH THE NON-COMPETITIVE. I ASSUME THAT YOU --

24

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1 **COUNCILMEMBER LEVENTHAL:** OKAY. THERE ARE THESE OTHER ISSUES
2 AND I'LL GET TO YOU IN A MINUTE, DR. TIGNOR, WITH RESPECT TO
3 CONFLICTS WITH STATE OR FEDERAL LAW OR GRANT REQUIREMENTS THAT
4 ARE NOT IN THE BILL AS ADOPTED BY M.F.P. --

5

6 **COUNCILMEMBER PRAISNER:** RIGHT, BUT OUR RECOMMENDATION WAS IF
7 YOU GO WITH A LOCAL PREFERENCE THAT YOU INCORPORATE THAT
8 LANGUAGE. EXCUSE ME. THE COMMITTEE SAID --

9

10 **COUNCILMEMBER LEVENTHAL:** AND THE STAFF HAD DRAFTED THAT.

11

12 **COUNCILMEMBER PRAISNER:** RIGHT.

13

14 **COUNCILMEMBER LEVENTHAL:** TO THAT BECAUSE WE DID, WE HAVE GONE
15 WITH LOCAL --

16

17 **MARC HANSEN:** MR. LEVENTHAL YOU MIGHT STRENGTHEN YOUR POLICY
18 GOAL HERE BY ADDING TO THE LIST AWARDS MADE UNDER AN OPEN
19 SOLICITATION. BECAUSE I KNOW THAT DURING THE DISCUSSION OF THE
20 GRANTS AWARDS PROCESS THAT THE COUNCIL'S UNDERGONE, THAT
21 THERE'S SOME IDEA THAT WE WANT TO MOVE SOME OF THESE FOLKS OUT
22 OF THE GRANT LIST AND ONTO AN OPEN SOLICITATION LIST. SO YOU
23 MAY WANT TO CONSIDER ADDING THAT TO YOUR DRAFT ON 106 SO THAT
24 AN AWARD MADE UNDER AN OPEN SOLICITATIONS WOULD NOT BE COUNTED.

25

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1 **COUNCILMEMBER LEVENTHAL:** THAT RAISES A WHOLE LOT OF ISSUES.
2 HOW IS THAT DIFFERENT FROM AN OPEN PROCUREMENT?

3
4 **DR. TIGNOR:** WE DON'T HAVE OPEN PROCUREMENT.

5
6 **MARC HANSEN:** WELL, AN OPEN SOLICITATION --

7
8 **DR. TIGNOR:** THAT'S DIFFERENT.

9
10 **MARC HANSEN:** GENERALLY IS NOT ONE WHERE WE BUY OUR NORMAL
11 KINDS OF GOODS AND SERVICES. AN OPEN SOLICITATION WOULD BE
12 WHERE LOOKING FOR A DENTIST TO PROVIDE CARE TO A CLIENT.

13
14 **DR. TIGNOR:** THEY USE IT THAT WAY ANYWAY.

15
16 **COUNCILMEMBER PRAISNER:** IT'S LIKE OUR REQUEST FOR PEOPLE TO
17 SUBMIT -- GRANT APPLICATIONS IS AN OPEN SOLICITATION.

18
19 **COUNCILMEMBER LEVENTHAL:** I HAVE TO TELL YOU, TO MY KNOWLEDGE,
20 BASED ON MY UNDERSTANDING OF THE BILL AND THEN DEPENDING WHAT
21 THE REGS SAY, THE FOLKS WHO ARE APPLYING FOR THESE GRANTS ARE
22 LOCAL, SMALL BUSINESSES ANYWAY. I MEAN, THEY'RE BASED IN THE
23 COUNTY. THEY'RE SMALL. SO, LIKELY, YOU KNOW, I'M NOT SURE THAT
24 I SEE WHAT IS THE PROBLEM IS BUT, IF THE M.F.P. COMMITTEE HAS
25 RECOMMENDED THAT IF WE GO WITH LOCAL, WHICH WE'VE JUST DONE,

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1 WE GO WITH THIS LANGUAGE ON CIRCLE 106 IN MY MEMO, THEN WE
2 SHOULD DO THAT. IN ADDITION, THIS MAY BE THE PLACE, WHERE IT
3 SAYS THE TOTAL DOLLAR VALUE OF PROCUREMENTS BY A USING
4 DEPARTMENT DOES NOT INCLUDE -- THAT MAY BE THE PLACE WHERE WE
5 CAN ADDRESS MR. KNAPP'S POINT, WHERE WE COULD ADD SOMETHING --
6 IF WE'RE ADDING THIS LANGUAGE ANYWAY AND THE M.F.P. COMMITTEE
7 ANTICIPATED THAT AND IF WE ARE CREATING THESE CATEGORIES OF,
8 YOU KNOW, PROBLEMATIC ISSUES WHERE IT DOES NOT APPLY, IT SEEMS
9 TO ME, MR. KNAPP, WE COULD ALSO ADD ONE FOR ANY PROCUREMENT
10 WHERE NO LOCAL SMALL BUSINESS IS AVAILABLE TO MEET THE
11 PROCUREMENT.

12
13 **DR. TIGNOR:** YES, MOST OF THE TIME IN ADDRESSING YOUR QUESTION,
14 COUNCILMAN LEVENTHAL, OR YOUR COMMENT, IN TERMS OF OPEN
15 SOLICITATIONS, THE REASON WE DO THEM IS BECAUSE WE HAVE A
16 SMALL NUMBER OF PEOPLE WHO ARE AVAILABLE DO THAT KIND OF WORK.
17 YES, MANY OF THE PEOPLE WHO DO APPLY ARE LOCAL BUSINESSES BUT
18 WHEN WE NEED SOMEONE WHO DOES IMMUNIZATION, YOU FIND THERE ARE
19 A LOT OF MEDICAL PEOPLE WHO CAN DO IT BUT THEY WON'T APPLY. SO
20 WE KIND OF NEED TO OPEN AND THAT IS WHY WE USE THE OPEN
21 SOLICITATION, NUTRITIONISTS, GRIEF COUNSELORS, I MEAN PEOPLE
22 THAT DON'T JUST GENERALLY APPLY FOR THINGS.

23
24 **COUNCILMEMBER PEREZ:** WELL, THAT'S A A TERM OF ART.

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1 **DR. TIGNOR:** YES.

2

3 **COUNCILMEMBER PRAISNER:** OPEN SOLICITATION IS A TERM OF ART.

4

5 **COUNCILMEMBER LEVENTHAL:** WELL, THEN IT WOULD HAVE TO BE

6 DEFINED BECAUSE PEOPLE, BUSINESS WILL LOOK AT--

7

8 **DR. TIGNOR:** THEY ALREADY HAVE IT.

9

10 **COUNCILMEMBER PRAISNER:** I THINK IT IS IN THE PROCUREMENT, THE

11 DEFINITIONS.

12

13 **COUNCILMEMBER PEREZ:** I MEAN I DON'T HAVE OBJECTION.

14

15 **SPEAKER:** IT'S A SITUATION WHERE ANYBODY WHO APPLIES WILL GET

16 THE AWARD.

17

18 **COUNCILMEMBER PEREZ:** OKAY.

19

20 **DR. TIGNOR:** SNOW REMOVAL, SOMETIMES IT HAS TO BE OPEN.

21 SOMETIMES IT IS AN EMERGENCY. SOMETIMES IT'S OPEN, YOU KNOW.

22

23 **COUNCILMEMBER PRAISNER:** IN SOME CASES THERE IS A SITUATION

24 WHERE YOU'RE CASTING A NET AND YOU'RE ASKING PEOPLE TO COME

25 FORWARD AND FROM THAT LIST YOU CHOOSE PEOPLE PERIODICALLY TO

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1 DO THINGS. THAT'S A KIND OF OPEN SOLICITATION WHERE YOU, SAY,
2 NEED A DENTIST. AT DIFFERENT TIMES YOU DO A SOLICITATION THEN
3 YOU USE THEM WHENEVER YOU CONTRACTUALLY NEED TO.

4

5 **DR. TIGNOR:** SAY, FOR FIVE YEARS.

6

7 **MARC HANSEN:** ANY DENTIST WHO IS QUALIFIED AND COMES FORWARD
8 AND IS WILLING TO PROVIDE THIS SERVICE AT THIS RATE, WE MAKE A
9 CONTRACT AWARD TO YOU.

10

11 **DR. TIGNOR:** AND CALL ON YOU WHEN WE NEED YOU.

12

13 **COUNCILMEMBER PRAISNER:** RIGHT. AND YOU'RE PAID AS YOU PERFORM,
14 FOR PERFORMANCE WHEN THE PERFORMANCE OCCURS.

15

16 **MARC HANSEN:** GENERALLY.

17

18 **COUNCILMEMBER PRAISNER:** BUT HAVE YOU THAT GENERAL RELATIONSHIP
19 THAT HAS BEEN ESTABLISHED.

20

21 **COUNCILMEMBER LEVENTHAL:** WELL, OKAY. I'D LIKE TO -- I GUESS
22 MIKE IS LOOKING IT UP SO I'D JUST LIKE TO SEE THE DEFINITION
23 ON THAT. WHAT ABOUT WHAT I'VE -- MAYBE WE CAN DISPOSE MR.
24 KNAPP'S ISSUE.

25

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1 **COUNCILMEMBER PRAISNER:** WELL, MY QUESTION WITH MR. KNAPP'S
2 ISSUE, AND I'M SUPPORTIVE OF THE ISSUE, IS ARE YOU EXCLUDING
3 IT FROM THE OVERALL DOLLAR AMOUNT OF THE CONTRACTS? OR ARE YOU
4 ALSO EXCLUDING IT FROM THE AWARDED REQUIREMENT?

5

6 **COUNCILMEMBER LEVENTHAL:** YEAH, THAT'S A GOOD QUESTION. BECAUSE
7 THE DEPARTMENT STILL MAKES THE GOAL EVEN IF --

8

9 **COUNCILMEMBER PRAISNER:** THIS RELATES TO HOW YOU CALCULATE THE
10 PERCENTAGE REQUIREMENT, CORRECT? AND YOU WOULD WANT IT THERE,
11 IT WOULD SEEM TO ME, BUT YOU MAY WANT IT ELSEWHERE, AS WELL.

12

13 **COUNCILMEMBER PEREZ:** YES. LIKE I SAID, THAT'S THE KIND OF
14 INFORMATION THAT I THINK WE'RE GOING TO GET BACK AS WE SEE
15 THIS PROGRAM. I MEAN I DON'T KNOW --

16

17 **COUNCILMEMBER PRAISNER:** WELL, THAT'S TRUE, TOO.

18

19 **COUNCILMEMBER KNAPP:** YEAH. I DON'T KNOW IF AS A RESULT OF THIS
20 THAT YOU HAVE A NUMBER OF ORGANIZATIONS THAT -- A NUMBER OF
21 BIDS WHAT WON'T MEET IT SO AS A RESULT YOU WON'T HIT YOUR 10%
22 OR, YOU KNOW, EACH OF THE DEPARTMENTS WILL REALLOCATE IT SO
23 THAT THEY CAN STILL GET THEIR 10% AND THEY'RE JUST KEY INTO --

24

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1 **COUNCILMEMBER PRAISNER:** IT SHOULDN'T BE ACTIVATED BEFORE
2 BEFORE THE SOLICITATION GOES OUT.

3

4 **COUNCILMEMBER KNAPP:** NO, NO.

5

6 **COUNCILMEMBER PRAISNER:** BUT IT SHOULD BE AS A RESULT OF WHAT
7 YOU LEARN FROM THE SOLICITATION.

8

9 **COUNCILMEMBER KNAPP:** YEAH. IN THE EVENT THAT NO SMALL
10 BUSINESSES ARE AVAILABLE TO FULFILL SECTION B, THEN THE
11 DEPARTMENT'S PROCUREMENT WILL NOT BE SUBJECTED TO THE SECTION,
12 OR SOMETHING TO THAT EFFECT.

13

14 **COUNCILMEMBER PRAISNER:** YEAH, THAT'S WHY IT SHOULDN'T BE HERE
15 ONLY.

16

17 **COUNCILMEMBER LEVENTHAL:** EXCEPT THAT YOU WOULD STILL THE
18 DEPARTMENT WITH A 10% REQUIREMENT FOR ALL OF ITS OTHER
19 CONTRACTS, WHICH MIGHT BE HARDER RATHER THAN EASIER. THAT
20 DOESN'T GET THE DEPARTMENT OFF OF THE HOOK.

21

22 **COUNCILMEMBER KNAPP:** WELL, I'M NOT DOING IT TO GET THE
23 DEPARTMENT OFF OF THE HOOK.

24

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1 **COUNCILMEMBER PRAISNER:** IT'S ALL GOING TO BE HARD BECAUSE WE -
2 -

3
4 **COUNCILMEMBER KNAPP:** I'M JUST DOING IT TO MAKE SURE THAT WE
5 GET STUFF DONE.

6
7 **COUNCILMEMBER LEVENTHAL:** NO, BUT MY POINT IS THAT -- I
8 UNDERSTAND, BUT THE WAY THE LAW -- THE WAY THE BILL IS WRITTEN
9 THE 10% REQUIREMENT DOES NOT APPLY TO ANY INDIVIDUAL CONTRACT.
10 IT IS ONLY MEASURED AGAINST THE AGGREGATE OF ALL CONTRACTS
11 EXECUTED BY A DEPARTMENT. SO THE FACT THAT THERE IS NO LOCAL
12 VENDOR FOR FAUCET HANDLES DOESN'T MEAN THAT DEPARTMENT DOESN'T
13 HAVE TO MEET A 10% GOAL EVEN IF THE FAUCET HANDLE ISN'T BOUGHT
14 BY MILWAUKEE.

15
16 **MARC HANSEN:** BUT IT REDUCES THE TOTAL VALUE OF PROCUREMENT.

17
18 **COUNCILMEMBER PRAISNER:** RIGHT.

19
20 **MARC HANSEN:** SAY IF YOU HAVE \$1,000,000 IN PROCUREMENTS TO
21 MAKE --

22
23 **COUNCILMEMBER LEVENTHAL:** THE AVERAGE GOES DOWN.

24

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1 **MARC HANSEN:** THIS WOULD, IN \$100,000 OF IT THERE IS NO LOCAL
2 MARKET FOR IT, IT WOULD REDUCE THAT BY THAT AMOUNT SO INSTEAD
3 OF 10% BEING OF \$1 MILLION IT WOULD BE 10% OF \$900,000. SO IT
4 WOULD BE MORE --

5

6 **COUNCILMEMBER LEVENTHAL:** OKAY, SO THAT THE POINT IS IT'S
7 BETTER FOR THE DEPARTMENT TO HAVE A SMALLER GOAL TO HIT? THE
8 SMALLER POOL AGAINST WHICH YOU LEVY THE 10% REQUIREMENT THE
9 EASIER FOR THE DEPARTMENT TO MEET IT.

10

11 **MARC HANSEN:** RIGHT. IF YOU'RE PULLING THINGS OUT.

12

13 **COUNCILMEMBER LEVENTHAL:** OKAY. FINE.

14

15 **DR. TIGNOR:** NOW, MY CONCERN, WHICH IS A FUNDING ONE, SINCE WE
16 HAVE TO WORK WITH C.O.G. -- COUNCIL OF GOVERNMENTS AND WE DO
17 MANY BRIDGE PROCUREMENTS, FOR EXAMPLE, MONTGOMERY COUNTY BUYS
18 ALL OF THE GASOLINE, DIESEL FUEL, FOR ALL OF C.O.G. I WOULD
19 RECOMMEND AS A FRIENDLY AMENDMENT THAT YOU CONSIDER IN THAT
20 WAIVER PROCESS BRIDGE CONTRACTS AS A RESULT. SO I CAN CONTINUE
21 TO WORK WITH VIRGINIA AND OTHER AREAS THAT DON'T HAVE THAT
22 SET-ASIDE. AND AFTER THAT, I'M THROUGH.

23

24 **SPEAKER:** DO YOU EXEMPT FROM A LIVING WAGE --

25

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1 **DR. TIGNOR:** THEY'RE ALREADY EXEMPTED FROM THE LIVING WAGE.

2

3 **COUNCILMEMBER PRAISNER:** WELL, BUT THERE MAY BE ANOTHER BRIDGE
4 CONTRACT THAT GOES THROUGH C.O.G. FOR SOMETHING ELSE THAT --
5 ISN'T THAT BECAUSE IT'S A GOVERNMENT ENTITY?

6

7 **SPEAKER:** COG IS NOT CONSIDERED A GOVERNMENT ENTITY, NO.

8

9 **COUNCILMEMBER PRAISNER:** I GUESS THAT'S OUR CONVERSATION FROM
10 EARLIER TODAY.

11

12 **DR. TIGNOR:** BUT THE OTHER THING IT DOES TOO -- AND THE OTHER
13 THING THAT IT DOES IS SINCE THE MAJORITY OF OUR MINORITY
14 VENDORS RESIDE OUTSIDE OF THE COUNTY EXCEPT FOR THE HISPANIC
15 ETHNICITY, THEN IT WOULD ALLOW US TO INCLUDE MORE OF THEM BACK
16 IN AS -- WHAT DO I WANT TO SAY? AS A SUBCONTRACTOR ON THE
17 BRIDGE CONTRACTS. ON OUR BRIDGE CONTRACTS WE GET A HIGH NUMBER
18 OF --

19

20 **COUNCILMEMBER LEVENTHAL:** WHAT PERCENT OF THE TOTAL ARE WE
21 TALKING ABOUT ON THESE BRIDGE CONTRACTS? HOW LARGE ARE THEY AS
22 A PORTION OF ALL THE BUSINESS WE DO IN MONTGOMERY COUNTY?

23

24 **DR. TIGNOR:** I'D HAVE TO GET BACK BUT I KNOW THAT EVERY JUST --
25 I KNOW I DO MILLIONS AND MILLIONS OF DOLLARS JUST IN GASOLINE

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1 AND OIL ALONE, AND DIESEL. FAIRFAX DOES ALL THE PAPER AND
2 OTHER PEOPLE DO POLYURETHANE BAGS. SOMEONE ELSE DOES SOMETHING
3 ELSE.

4

5 **COUNCILMEMBER PRAISNER:** IT IS AN INITIATIVE THAT ACTUALLY THE
6 COUNCIL HAS ENCOURAGED.

7

8 **COUNCILMEMBER LEVENTHAL:** YEAH, SURE. AND THAT MAKES A LOT OF
9 SENSE.

10

11 **DR. TIGNOR:** I JUST WANTED TO BE ABLE TO KEEP THE MINORITY
12 PARTICIPATION AS A, YOU KNOW, SUBCONTRACTOR AND NOT GET INTO
13 HAVING MORE -- REWRITING ALL OF THE BOILER PLATES AND WE GET
14 KICKED OUT ON CERTAIN THINGS, AS WE HAVE. THAT'S ALL.

15

16 **COUNCILMEMBER PRAISNER:** SO, CAN YOU WRITE LANGUAGE THAT SAYS
17 BRIDGE CONTRACTS IN GENERAL OR JUST BRIDGE CONTRACTS WITH THE
18 COUNCIL OF GOVERNMENTS AND OTHER GOVERNMENT ENTITIES WOULD BE
19 PART OF THIS, ANYWAY?

20

21 **DR. TIGNOR:** YEAH, MOST OF THE TIME BRIDGE CONTRACTS ARE WITH
22 PUBLIC ENTITIES.

23

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1 **COUNCILMEMBER PRAISNER:** WELL, BUT SO THEN THE PUBLIC ENTITY
2 ALREADY, THE LANGUAGE FOR PUBLIC ENTITY, ALREADY IS EXCLUDED,
3 BEA.

4

5 **DR. TIGNOR:** OKAY. AND THEN DO WE CONSIDER C.O.G. A PUBLIC --

6

7 **COUNCILMEMBER PRAISNER:** WELL, THAT'S WHY I WAS SAYING, AND I
8 WOULD SUGGEST YOU MIGHT WANT TO WRITE WITH THE COUNCIL OF
9 GOVERNMENTS OR ANY PUBLIC ENTITY. THAT WOULD SATISFY YOUR
10 PROBLEM, I THINK, AND NOT BROADEN IT TO SUCH THAT WE'RE
11 TALKING ABOUT BRIDGE CONTRACTS, IN GENERAL.

12

13 **COUNCILMEMBER LEVENTHAL:** IS BRIDGE CONTRACT DEFINED SOMEWHERE
14 IN THE CODE?

15

16 **COUNCILMEMBER PRAISNER:** YES.

17

18 **COUNCILMEMBER LEVENTHAL:** AND IT, BASICALLY, MEANS A JOINT
19 PROCUREMENT WITH OTHER JURISDICTIONS? IS THAT WHAT IT IS?

20

21 **COUNCILMEMBER PRAISNER:** YOU BUILD ON AND SOMEONE -- SOMEBODY
22 SERVES AS THE CONDUIT, THE BRIDGE, FOR OTHERS TO BID, TO
23 PURCHASE THROUGH.

24

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1 **DR. TIGNOR:** I MEAN WE HAVE PEOPLE WHO WRITE OUR BRIDGE
2 CONTRACTS FROM AS FAR AWAY AS CALIFORNIA BECAUSE WE HAVE, FOR
3 EXAMPLE, WE PROBABLY HAVE 45 JURISDICTIONS IN THE LOCAL AREA
4 THAT CURRENTLY WRITE OUR COPIER CONTRACTS.

5

6 **COUNCILMEMBER PRAISNER:** WE ENCOURAGE THAT.

7

8 **DR. TIGNOR:** YEAH, WE ENCOURAGE THAT TO GET THE BEST DEAL

9

10 **COUNCILMEMBER LEVENTHAL:** RIGHT. I UNDERSTAND THAT. I
11 UNDERSTAND WHY WE WOULD ENCOURAGE THAT.

12

13 **COUNCILMEMBER PRAISNER:** WELL, SO CAN WE WRITE ONE WHICH, THAT
14 SAYS SOMETHING ABOUT C.O.G. AND

15

16 **DR. TIGNOR:** PUBLIC ENTITIES.

17

18 **COUNCILMEMBER PRAISNER:** AND PUBLIC ENTITIES AND THE COUNCIL OF
19 GOVERNMENTS?

20

21 **SONYA HEALY:** AND WE'RE STILL TALKING ABOUT INCLUDING THAT IN
22 THE DOLLARS THAT EXCLUDED IN THAT SAME SECTION.

23

24 **COUNCILMEMBER PRAISNER:** CORRECT, YEAH. THAT WOULD, IT SEEMS TO
25 ME, RESPOND TO THE CONCERNS.

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1

2 **DR. TIGNOR:** YEAH. I JUST DON'T WANT TO LOSE -- IT'S ALREADY
3 DIFFICULT TO MEET THE MINORITY GOAL.

4

5 **COUNCILMEMBER PRAISNER:** I THINK WE'RE PAST THAT ISSUE. THE
6 QUESTION IS HOW WE DEAL WITH MR. KNAPP'S QUESTION AND IS THE
7 LANGUAGE HERE THE ONLY PLACE WHERE THAT'S NECESSARY?

8

9 **COUNCILMEMBER PEREZ:** RIGHT.

10

11 **COUNCILMEMBER PRAISNER:** AND WHAT IS THE APPROPRIATE LANGUAGE
12 TO PUT IN HERE FOR MR. LAP -- KNAPP'S -- LAP'S KNAPP'S. LAP.
13 [LAUGHTER] I WAS GOING TO SAY "MR. KNAPP'S LANGUAGE" AND SAID
14 "MR. LAP'S."

15

16 **COUNCILMEMBER PEREZ:** HERE'S ONE SUGGESTION I'D THROW OUT THERE.
17 I MEAN WE'RE HAVING A CONVERSATION, TO SOME EXTENT, ABOUT THE
18 DOCTRINE OF UNINTENDED CONSEQUENCES. WE WANT TO MAKE SURE THAT
19 --

20

21 **COUNCILMEMBER PRAISNER:** RIGHT.

22

23 **COUNCILMEMBER PEREZ:** WE UNDERSTAND WHAT AT LEAST THE MAJORITY
24 WANTS TO DO HERE, BUT THE WORDSMITHING IS PRETTY IMPORTANT.

25

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1 **COUNCILMEMBER PRAISNER:** RIGHT.

2

3 **COUNCILMEMBER PEREZ:** PERHAPS WHAT WE SHOULD DO IS -- IT IS
4 LUNCH TIME AND TAKE A BREAK AND YOU UNDERSTAND WHERE WE'RE AT
5 AND WHAT WE'RE TRYING TO ACCOMPLISH AND WE WERE COMING BACK
6 THIS AFTERNOON ANYWAY FOR THE FULL COUNCIL.

7

8 **COUNCILMEMBER LEVENTHAL:** RIGHT.

9

10 **COUNCILMEMBER PEREZ:** SO WE CAN -- THIS GIVES YOU AN HOUR TO
11 FIGURE OUT THE ANSWER AND GET BACK TO US.

12

13 **COUNCILMEMBER KNAPP:** CAN I THROW ONE MORE OUT THERE FOR THEM
14 TO FIGURE OUT?

15

16 **COUNCILMEMBER PEREZ:** YEAH, SURE.

17

18 **COUNCILMEMBER KNAPP:** YEAH, LET'S FIGURE OUT ARE THERE ANY
19 OTHER POTENTIAL WORDSMITHING DECISION POINTS SO THAT WE CAN
20 FIGURE OUT -- [INAUDIBLE]

21

22 **COUNCILMEMBER PEREZ:** YES. MS. FLOREEN?

23

24 **COUNCILMEMBER FLOREEN:** THANK YOU. THE DISCUSSION ABOUT BRIDGE
25 CONTRACTING IS REALLY FASCINATING AND I AM WONDERING, TO THE

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1 EXTENT TO WHICH WE'RE USING IT FOR THE KINDS OF SERVICES THAT
2 WE EXPECTED WOULD BE ABLE TO BENEFIT FROM THIS. THE
3 CONVERSATION WE JUST HEARD ABOUT COPIER SERVICING, WE HAVE A
4 BRIDGE. I MEAN I WOULD HAVE THOUGHT, AS AN INNOCENT OUTSIDER,
5 THAT THAT'S THE KIND OF THING THAT A LOCAL BUSINESS COULD
6 EASILY SUPPLY TO THE COUNTY AND I'M WONDERING IF, AS YOU'RE
7 DOING YOUR LITTLE RESEARCH EFFORT DURING OUR LUNCHTIME, TO THE
8 EXTENT THAT THAT OCCURS, WHEN WE COME BACK IF YOU COULD LET US
9 KNOW THE OTHER KINDS OF REALLY KIND OF BASIC STUFF OUT THERE
10 THAT IS TYPICALLY PART OF A BRIDGE CONTRACT. I MEAN, BECAUSE
11 ALL KINDS OF THINGS, JUST PAPER ACQUISITION, YOU KNOW, SORT OF
12 THE NUTS AND BOLTS OF LOCAL GOVERNMENT THAT, AT LEAST SOME OF
13 US WOULD THINK, COULD AT LEAST EASILY BE HANDLED BY A LOCAL,
14 SMALL BUSINESS MIGHT ALREADY BE SUBSUMED WITHIN THESE BRIDGE
15 CONTRACTS SO THAT WE MIGHT WANT TO WORRY ABOUT THAT LANGUAGE A
16 LITTLE MORE. I JUST DON'T KNOW. I DON'T HAVE A CLUE.

17
18 **COUNCILMEMBER PRAISNER:** WELL, YOU ALSO NEED TO WORRY, THEN,
19 ABOUT WHAT THE COST IMPLICATIONS ARE OF THE BRIDGE CONTRACTS -
20 -

21
22 **COUNCILMEMBER FLOREEN:** THERE IS ALL OF THAT.

23
24 **COUNCILMEMBER PRAISNER:** BECAUSE WE DON'T HAVE DATA ON ANYTHING,
25 ON THE POINT OF SMALL BUSINESSES AT THIS POINT.

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1

2 **COUNCILMEMBER FLOREEN:** THAT EXCHANGE TRIGGERED IN ME SOME MORE
3 QUESTIONS ABOUT WHAT THOSE KINDS OF CONTRACTS TYPICALLY DO.
4 GASOLINE I CAN SEE, BIG STUFF.

5

6 **DR. TIGNOR:** LET ME EXPLAIN WHEN I SAID "COPIERS." MONTGOMERY
7 COUNTY HAS THE CONTRACT FOR COPIERS. OTHER PEOPLE WRITE OUR
8 CONTRACTS. SO THAT IS AN OPPORTUNITY STILL FOR OTHER PEOPLE TO
9 STILL USE. A BRIDGE CONTRACT ISN'T ALWAYS ONE THAT WE WRITE.
10 SOMETIMES WE INITIATE THE CONTRACT AND BY THE -- OUR TERMS AND
11 CONDITIONS, IF IT'S COMPETITIVELY BID, THEN OTHER
12 JURISDICTIONS, AND PUBLIC ENTITIES MAY RIDE IT. SO, THAT'S
13 WHAT I'M SAYING.

14

15 **SPEAKER:** IF IT'S A GOOD ENOUGH DEAL.

16

17 **DR. TIGNOR:** IF IT'S A GOOD ENOUGH DEAL, RIGHT. IF IT'S NOT A
18 GOOD ENOUGH DEAL, THEY WON'T. BUT I WANT TO HOLD --

19

20 **COUNCILMEMBER FLOREEN:** IS THAT, ARE BRIDGE CONTRACTS TYPICALLY
21 -- WHAT ARE THE KINDS OF THINGS THAT BRIDGE CONTRACTS
22 TYPICALLY ARE EMPLOYED FOR? IS THERE SOME SORT OF UNIVERSAL
23 AGREEMENT AS TO WHAT YOU PIGGYBACK ON?

24

25 **COUNCILMEMBER PRAISNER:** NO. NO

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1

2 **DR. TIGNOR:** ANYTHING.

3

4 **COUNCILMEMBER PRAISNER:** IT GOES ACROSS THE GAMUT AND NATIONAL
5 ORGANIZATIONS ARE --

6

7 **COUNCILMEMBER FLOREEN:** IT COULD GO FOR OFFICE FURNITURE?

8

9 **DR. TIGNOR:** EXACTLY.

10

11 **COUNCILMEMBER FLOREEN:** IT COULD GO FOR ALL THE NUTS AND BOLTS
12 AND KINDS OF THINGS THAT WE ARE HOPING TO, WELL, SOME OF US
13 ARE THINKING, COULD JUST AS EASILY AND EFFICIENTLY BE SERVED
14 BY LOCAL BUSINESSES.

15

16 **SPEAKER:** WELL THERE'S NOTHING THAT PRECLUDES A LOCAL BUSINESS
17 FROM BIDDING. THAT'S --

18

19 **COUNCILMEMBER FLOREEN:** IF WE'RE GOING TO EXCLUDE BRIDGE
20 CONTRACTS ALTOGETHER, IT'S HELPFUL TO UNDERSTAND WHAT WE'RE
21 EXCLUDING, I THINK. AND THAT'S MY POINT HERE.

22

23 **COUNCILMEMBER PRAISNER:** WELL, BUT YOU'RE NOT EXCLUDING THEM
24 FROM BIDDING. YOU'RE JUST EXCLUDING THEM FROM BEING CONSIDERED

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1 WITHIN THE SET-ASIDE. THERE'S NOTHING THAT EXCLUDES ANYBODY
2 FROM BIDDING. AND IN FACT --

3

4 **COUNCILMEMBER FLOREEN:** WOULD I LIKE TO SEE THE LANGUAGE THAT
5 WE'RE TALKING ABOUT SO THAT WE UNDERSTAND THE IMPLICATIONS.
6 THAT'S REALLY THE ISSUE.

7

8 **COUNCILMEMBER PEREZ:** I THINK THE QUESTION PRESENTED RIGHT NOW
9 IS WHAT DECISION POINTS ARE THERE FOR THEM TO WORK ON SOME
10 LANGUAGE DURING THE RECESS.

11

12 **COUNCILMEMBER FLOREEN:** RIGHT.

13

14 **COUNCILMEMBER PEREZ:** AND THE QUESTION THAT I WOULD ASK PEOPLE
15 IS, ARE THERE OTHER ISSUES WHERE WE MAY NEED TO HAVE LANGUAGE
16 ADDED TO THIS BILL? BECAUSE WE WANT TO -- WE WANT TO -- I'D
17 LIKE TO VOTE ON THE BILL TODAY.

18

19 **COUNCILMEMBER LEVENTHAL:** WELL, YEAH, THERE, IS. IT HAS TO DO
20 WITH THE CAP ON THE DOLLAR VOLUME, TOO. THAT'S ALSO IN MY MEMO.

21

22 **COUNCILMEMBER PEREZ:** CORRECT.

23

24 **COUNCILMEMBER PRAISNER:** BUT THAT -- THE QUESTION IS, IT'S
25 PRETTY --

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1

2 **COUNCILMEMBER PEREZ:** I DON'T KNOW IF THE LANGUAGE IS --

3

4 **COUNCILMEMBER FLOREEN:** IT'S NOT A LANGUAGE ISSUE.

5

6 **COUNCILMEMBER LEVENTHAL:** WHY DON'T WE GIVE -- IF WE COULD, MR.

7 PRESIDENT, WE SHOULD GIVE OURSELVES -- MY WIFE IS CALLING ME.

8 HOLD ON [LAUGHTER] WE SHOULD GIVE OURSELVES --

9

10 **COUNCILMEMBER FLOREEN:** TURN ON THE TV! TURN ON THE TV AND

11 SHE'LL KNOW WHERE YOU ARE.

12

13 **COUNCILMEMBER LEVENTHAL:** WE SHOULD GIVE OURSELVES A FINITE

14 LIST -- I'M SUPPOSED TO BE MEETING MY WIFE FOR LUNCH. WE

15 SHOULD GIVE OURSELVES A FINITE LIST NOT JUST OF LANGUAGE THAT

16 STAFF HAS TO DRAFT BUT SO THAT COUNCIL MEMBERS KNOW IF WE'RE

17 VOTING ON THESE DECISIONS. SO, ON THE ISSUE OF ELIMINATING THE

18 DOLLAR CAP.

19

20 **COUNCILMEMBER PEREZ:** THAT IS CAUSING THE BUZZ.

21

22 **COUNCILMEMBER LEVENTHAL:** I APOLOGIZE. ON THE ISSUE OF --

23

24 **SPEAKER:** TO YOUR WIFE OR US?

25

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1 **COUNCILMEMBER LEVENTHAL:** ALL OF YOU. I APOLOGIZE TO EVERYONE.
2 [LAUGHTER] ELIMINATING THE DOLLAR CAP ON CONTRACT AWARDS, WE
3 NEED TO TAKE THAT UP, TOO.

4

5 **COUNCILMEMBER PEREZ:** OKAY. MS. PRAISNER, YOU HAD ONE THAT YOU
6 WANT TO TAKE UP, TOO?

7

8 **COUNCILMEMBER PRAISNER:** NO. I JUST WANT TO MAKE SURE THAT THEY
9 LOOK AT THE PLACES IN THE LEGISLATION WHERE MR. KNAPP'S
10 COMMENTS NEED TO BE INCORPORATED BECAUSE IT IS NOT JUST ON THE
11 ISSUE OF THE PERCENTAGE CALCULATION. IT IS ALSO ON THE ABILITY
12 TO AWARD ON THE CONTRACT AND NOT EXCLUSIVELY A SET-ASIDE, THAT
13 THE SET-ASIDE WOULD NOT EXIST IF THERE'S NO PEOPLE TO RESPOND
14 TO THE CONTRACT.

15

16 **COUNCILMEMBER PEREZ:** AND MR. SUBIN, DID YOU HAVE ANOTHER ONE?

17

18 **COUNCILMEMBER SUBIN:** NO. I HAVE A QUESTION, THOUGH, ON MS.
19 FLOREEN'S ISSUE BECAUSE I DON'T THINK THAT CAN SIMPLY BE
20 PASSED OVER BECAUSE WE NEED TO KNOW, I THINK, HOW MANY OF
21 THOSE CONTRACTS WOULD BE AFFECTED BECAUSE IF BRIDGE CONTRACTS
22 DO NOT COME UNDER THIS BILL, THEN WE COULD END UP WITH THE
23 BILL BUT, FOR ALL PRACTICAL PURPOSES, IT WOULDN'T MAKE ANY
24 DIFFERENCE AT ALL.

25

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1 **COUNCILMEMBER PRAISNER:** WE DIDN'T ADD -- I DON'T THINK WE
2 ADDED BRIDGE LANGUAGE. WE ADDED -- WHAT EXISTED WAS PUBLIC
3 ENTITIES AND THE COUNCIL OF GOVERNMENTS AS LANGUAGE TO
4 INCORPORATE. WE DON'T HAVE BRIDGE -- WE DIDN'T SAY ANY BRIDGE
5 CONTRACTS. THAT ISN'T LANGUAGE THAT'S THERE.

6

7 **COUNCILMEMBER SUBIN:** BUT WHAT I'M NOT UNDERSTANDING HERE IS IF
8 WE CAN'T EFFECT BRIDGE CONTRACTS AND THIS BILL WOULD NOT
9 AFFECT BRIDGE CONTRACTS FOR THE PAPER AND THE POLYETHYLENE
10 BAGS AND THE OTHER ISSUES THAT DIRECTOR TIGNOR WAS TALKING
11 ABOUT, THEN THE PRACTICAL EFFECT OF THIS BILL IS PRETTY CLOSE
12 TO NIL.

13

14 **COUNCILMEMBER PRAISNER:** WELL WE -- I GUESS, MR. SUBIN, FROM
15 FOLLOWING PROCUREMENT WE DON'T KNOW THAT. IT MAY OR IT MAY NOT.

16

17 **COUNCILMEMBER SUBIN:** THAT'S WHAT I'M TRYING TO FIND OUT.

18

19 **COUNCILMEMBER PRAISNER:** BECAUSE WE DON'T KNOW WHETHER THE
20 SMALL BUSINESS THAT ISN'T BIDDING NOW WOULD BID OR NOT BID. WE
21 DON'T KNOW WHAT THE -- WHETHER THE SMALL BUSINESS HAS THE
22 CAPACITY TO RESPOND TO ALL OF THESE BIDS. WE REALLY DON'T KNOW.
23 SO I DON'T THINK WE CAN MAKE THAT ASSUMPTION.

24

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1 **COUNCILMEMBER SUBIN:** BUT IF -- I MEAN HOW IS A SMALL -- IF FOR
2 INSTANCE, AS AN EXAMPLE BECAUSE I CAN'T THINK OF ANY SMALL
3 PAPER COMPANY. EACH STAPLES IS --

4

5 **SPEAKER:** DESKMATE.

6

7 **COUNCILMEMBER SUBIN:** DESKMATE, THERE YOU GO. IF DESKMATE LOOKS
8 AT A CONTRACT AND IT IS A CONTRACT FOR FOLDING CHAIRS OF A
9 CERTAIN TYPE. AND PRINCE GEORGE'S COUNTY IS ORDERING THOSE AND
10 THEY THEN NEED TO ORDER A NUMBER THAT DESKMATE IS, AS A SMALL
11 BUSINESS, IS NOT CAPABLE OF PROVIDING. THEN DESKMATE CAN'T BID.
12 ON THE OTHER HAND, IF WE ALONE WERE TRYING TO GET THEM FOR 100
13 CHAIRS, DESKMATE COULD BID. AND SO THE PRACTICAL EFFECT IS
14 DESKMATE IS OUT OF THE GAME.

15

16 **COUNCILMEMBER LEVENTHAL:** OKAY. THIS IS A VALID POINT BUT I
17 THOUGHT WHAT WE WERE DOING IS IDENTIFYING A SHORT LIST OF
18 ISSUES TO BE DEALT WITH AFTER LUNCH. THIS IS ONE. THIS IS
19 CERTAINLY ON THAT LIST.

20

21 **COUNCILMEMBER SUBIN:** THERE IS IMPORTANT. THIS IS ONE.

22

23 **COUNCILMEMBER PEREZ:** THE QUESTION PRESENTED NOW, I THINK THIS
24 IS A CRITICAL ISSUE AND WE COULD SPEND THE NEXT HOUR
25 DISCUSSING THE ISSUE. I THINK THE NEXT HOUR IS BEST SPENT --

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1

2 **COUNCILMEMBER LEVENTHAL:** EATING LUNCH.

3

4 **COUNCILMEMBER PEREZ:** DOING WORDSMITHING.

5

6 **COUNCILMEMBER FLOREEN:** WHERE'S MRS. LEVENTHAL?

7

8 **COUNCILMEMBER PEREZ:** AND WE WILL -- WE'RE ALL GOING OUT TO
9 LUNCH, OKAY, WITH MRS. LEVENTHAL. SHE'S BUYING FOR ALL NINE OF
10 US, OKAY? AND ANYONE IN THE AUDIENCE. BUT WE NEED TO RETURN TO
11 THIS ISSUE BECAUSE MR. SUBIN RAISES, AND MS. FLOREEN AND
12 OTHERS HAVE RAISED A POINT THAT IS A VERY SERIOUS ISSUE. AND
13 WE NEED TO MAKE SURE WE RESOLVE IT.

14

15 **SPEAKER:** WHEN ARE WE COMING BACK?

16

17 **COUNCILMEMBER PEREZ:** WE'RE COMING BACK AT 1:45. WE HAVE TWO
18 SPEAKERS AT OUR HEARING THIS AFTERNOON. SO WE WILL -- YOU HAVE
19 A, YES WE DO.

20

21 **COUNCILMEMBER KNAPP:** I HAVE ONE MORE THING TO ADD.

22

23 **COUNCILMEMBER PEREZ:** OKAY.

24

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1 **COUNCILMEMBER KNAPP:** WHICH IS LANGUAGE WHICH I THINK GOES IN
2 REGULATIONS BUT THIS IS WHY I THROW THIS OUT THERE, TO
3 IDENTIFY METHODS FOR OUTREACH IN MARKETING TO INCREASE
4 AWARENESS OF THIS PROGRAM TO SMALL BUSINESSES. I THINK IT
5 WOULD GO IN, SO I THINK IT WOULD GO IN 11 B-68 WITH A SECOND
6 ADDITION TO THE REPORTS THAT WOULD ELIMINATE THE 'N' RIGHT AT
7 THE END AND PUT IN A 'COMMA AND THE RESULT OF OUTREACH
8 EFFORTS'. OKAY 1:45 WE WILL RECONVENING.

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1 ### Afternoon Session ###

2

3 **COUNCILMEMBER PEREZ:** GOOD AFTERNOON, LADIES AND GENTLEMEN.

4 THIS IS A PUBLIC HEARING ON ADDITIONS TO THE FY06 CAPITAL

5 BUDGET, AND ADDITIONAL AMENDMENTS TO THE FY05 TO FY10 CAPITAL

6 IMPROVEMENTS PROGRAM FOR COUNTY GOVERNMENT. SPECIFIC

7 INFORMATION ON THESE ADDITIONAL AMENDMENTS IS AVAILABLE BY

8 CALLING THE COUNTY COUNCIL OFFICE AT 244-777-7900. ASK FOR

9 MARILYN PRAISNER -- NO, NO [LAUGHTER] I'M SORRY, ASK FOR

10 COUNCIL STAFF MEMORANDUM OF MARCH 21ST, 2005, CONCERNING

11 ADDITIONAL FY05 TO FY10 C.I.P. AMENDMENTS. BEFORE BEGINNING

12 YOUR PRESENTATION, PLEASE STATE YOUR NAME FOR THE RECORD. WE

13 HAVE TWO SPEAKERS, FRANCES GLENDENING ON BEHALF OF THE OLNEY

14 THEATER CENTER, AND JULIA CASWELL-DAITCH AS AN INDIVIDUAL.

15 COME ON IN. COME ON UP.

16

17 **FRANCES GLENDENING:** GOOD AFTERNOON. I'M PUTTING ON MY GLASSES

18 THIS AFTERNOON. SOME OF YOU HAVE KNOWN ME FOR MANY YEARS. AND,

19 I WON'T NAME ALL OF YOU. A COUPLE THEM AREN'T-- ONE OF THEM

20 ISN'T HERE. ACTUALLY, TWO OF THEM AREN'T HERE. AND WHEN YOU

21 FIRST KNEW ME, I DIDN'T NEED GLASSES. SO YOU CAN SEE THAT, AS

22 TIME GOES BY, THAT THIS HAPPENS. FOR THOSE OF YOU THAT HAVE

23 KNOWN ME A REALLY LONG TIME, MY SON IS NOW 25 AND 6'3". SO,

24 THERE YOU HAVE IT. AND SOME OF YOU KNEW ME BEFORE I HAD A SON.

25 SO, I THOUGHT I WOULD PROVIDE THAT BIT OF HISTORY. AS WAS

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1 MENTIONED, I'M FRANCES GLENDENING. I TRULY APPRECIATE THE
2 OPPORTUNITY TO APPEAR BEFORE YOU TODAY AS THE BOARD CHAIR OF
3 OLNEY THEATER CENTER FOR THE ARTS. SPECIFICALLY, I'M HERE
4 SEEKING YOUR FULL SUPPORT FOR THE COUNTY EXECUTIVE'S PROPOSED
5 AMENDMENT THAT PROVIDES \$500,000 TOWARD COMPLETING THE
6 CONSTRUCTION OF OUR NEW MAIN STAGE. THANKFULLY, THIS NEW MAIN
7 STAGE IS SCHEDULED TO OPEN IN AUGUST, 2005 WITH OUR HIGHLY
8 ANTICIPATED REVIVAL OF "THE MIRACLE WORKER." I DO WANT TO
9 THANK SINCERELY-- AND I MEAN THAT FROM THE BOTTOM OF MY HEART.
10 SOME OF YOU KNOW, BECAUSE I HAVE BEEN IN PUBLIC SERVICE
11 LITERALLY MY ENTIRE LIFE. I GUESS I FIRST STARTED WHEN I WAS
12 FOUR YEARS OLD, AND I'M 54. SO I'VE GOT A LONG TIME I HAVE
13 BEEN INVOLVED IN PUBLIC LIFE. AND I MEAN THAT SINCERELY, FROM
14 THE BOTTOM OF MY HEART. I WANT TO THANK ALL OF YOU FOR YOUR
15 PAST LEADERSHIP AND SUPPORT OF OLNEY THEATER CENTER. THE
16 COUNTY'S GENEROSITY, GREAT GENEROSITY, HAS HELPED MAKE
17 POSSIBLE THE GROWTH OF OUR 67-YEAR-OLD HISTORIC THEATER, AND
18 OUR NOW YEAR-ROUND SEASON, AND IT'S MADE POSSIBLE FOR THE
19 CITIZENS OF MONTGOMERY COUNTY. IT IS GREAT TO KNOW THAT THE
20 THEATER IS EVEN OLDER THAN I AM. NOW, OLNEY IS SIMULTANEOUSLY
21 A THEATER IN MONTGOMERY COUNTY AND A MONTGOMERY COUNTY THEATER.
22 APPROXIMATELY 90% OF OUR AUDIENCES ARE COUNTY RESIDENTS.
23 ADDITIONALLY, OUR EDUCATION AND OUTREACH PROGRAMS SERVE MORE
24 THAN 10,000 STUDENTS AND TEACHERS ANNUALLY THROUGHOUT THE
25 COUNTY. OUR NEW STATE-OF-THE-ART 450-SEAT THEATER CURRENTLY IS

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1 UNDER CONSTRUCTION ON OUR 18-ACRE MONTGOMERY COUNTY CAMPUS,
2 AND AS I SAID, WE ANTICIPATE CONSTRUCTION WILL BE COMPLETED
3 WITHIN THE NEXT MONTH. I HAVE IT ON GOOD AUTHORITY, BACK HERE.
4 LET ME SEE IF I STILL HAVE-- WE ASK OUR CONSTRUCTION PEOPLE
5 EVERY DAY, "IS IT STILL GOING TO BE THE END OF MAY" AND THEY
6 SAY YES. IS THERE ANY REASON? SO, THAT IS WHY I LOOKED BACK
7 THERE. THE TOTAL COST FOR THIS PROJECT IS JUST AROUND \$10.1
8 MILLION, WHICH-- I KNOW IT SEEMS LIKE A LOT, BUT FOR NEW
9 THEATER CONSTRUCTION IT IS FAIRLY MODEST. JUST LAST NIGHT,
10 THANKFULLY AGAIN, WE SECURED \$750,000 IN CAPITAL FUNDS FROM
11 THE GREAT STATE OF MARYLAND. HOWEVER, THIS STILL PUTS US IN
12 THE POSITION OF NEEDING NEARLY \$1.4 MILLION TO FINISH PAYING
13 FOR THE FACILITY, WHICH INCLUDES STAGE EQUIPMENT, RIGGING
14 SYSTEMS, LIGHTS, AND THE OTHER NECESSITIES THAT WE, OF COURSE,
15 NEED TO PRODUCE WHAT WE DO, THE GREAT PERFORMANCES AT THE
16 OLNEY THEATER. WHILE RECOGNIZING-- AND I THINK THIS IS AN
17 IMPORTANT PART, AND I HOPE YOU WILL TAKE WITH YOU TODAY. IN
18 PART, RECOGNIZING THE COUNTY AND STATE COMMITMENTS TO-- <BEEP>.

19
20 **FRANCES GLENDENING:** DOES THAT MEAN I HAVE TO STOP?

21
22 **COUNCILMEMBER PEREZ:** IF YOU COULD WRAP UP. I WON'T STOP YOU IN
23 MID-SENTENCE.

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1 **FRANCES GLENDENING:** THE KRESGE FOUNDATION, WHICH IS A VERY
2 IMPORTANT NATIONAL FOUNDATION, IS INVESTING \$1.1 MILLION. WE
3 WENT THROUGH A VERY STRENUOUS PROCESS TO GET THE MONEY FROM
4 THEM, BUT WE NEED TO MEET CERTAIN BENCHMARKS. IT GOES THROUGH
5 THE YEAR 2007. AND ONE OF THE BENCHMARKS IS TO COMPLETE THE
6 NEW MAIN STAGE, AND WE REALLY NEED YOUR HELP TO DO THAT. SO,
7 THANK YOU VERY MUCH. I'M SORRY TO HAVE EXCEEDED MY TIME LIMIT.

8

9 **COUNCILMEMBER PEREZ:** OKAY, THANK YOU. NO PROBLEM.

10

11 **FRANCES GLENDENING:** DO YOU HAVE ANY QUESTIONS?

12

13 **COUNCILMEMBER PEREZ:** WE GO THROUGH THE WITNESSES AND THEN,
14 WHEN THE WITNESSES ARE THROUGH, ANYBODY WHO HAS ANY QUESTIONS-
15 -

16

17 **FRANCES GLENDENING:** I THOUGHT I WAS GETTING OFF TOO EASILY ON
18 THAT.

19

20 **COUNCILMEMBER PEREZ:** I'M CONFIDENT YOU WON'T GET OFF THAT
21 EASILY.

22

23 **JULIA CASWELL-DAITCH:** MY NAME IS JULIA CASWELL-DAITCH, AND I'M
24 HONORED TO SPEAK TODAY ON BEHALF OF THE OLD BLAIR AUDITORIUM
25 PROJECT. AND FOR ALL THESE PEOPLE STANDING BEHIND ME, AND

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1 THOUSANDS OF OTHERS, I THINK ONE OF THE MOST COMPELLING
2 REASONS FOR THE COUNTY TO SUPPORT THIS PROJECT IS THE
3 FINANCIAL ONE. YOU ALREADY HAVE ALL THE COMPELLING INFORMATION.
4 A \$50 MILLION FACILITY, EMPTY, BOARDED UP, A LIABILITY FOR THE
5 COUNTY, WAITING TO BE RENOVATED FOR THE BARGAIN PRICE OF \$2
6 MILLION. THINK ABOUT IT. \$50 MILLION FOR A FACILITY IN THE
7 COUNTY, FOR YOUR CONTRIBUTION OF \$500,000. I THINK THERE IS
8 NOWHERE ELSE IN THE ENTIRE COUNTY WHERE YOU CAN GET THAT KIND
9 OF BANG FOR YOUR BUCK. THAT IS FISCAL RESPONSIBILITY. THE
10 COMMUNITY HAS ALREADY RAISED \$40,000, AND HAS INVESTED TENS OF
11 THOUSANDS OF DOLLARS WORTH OF VOLUNTEER HOURS AND IN-KIND
12 SUPPORT FOR THIS PROJECT ALREADY. WE'LL BE STARTING OUR MAJOR
13 PRIVATE AND CORPORATE FUNDRAISING CAMPAIGN THIS SPRING. THE
14 STATE OF MARYLAND HAS APPROVED A \$600,000 BOND BILL, PROVIDED
15 THAT YOU, THE COUNTY, WILL MATCH \$500,000. ALL WE WANT IS FOR
16 YOU TO CONTRIBUTE YOUR FAIR SHARE. BUT THIS PROJECT IS MUCH
17 MORE THAN NUMBERS TO ME. AS AN OLD BLAIR ALUM AND HEAD OF
18 STAGE CREW IN THAT VERY AUDITORIUM, I KNOW HOW LIFE CAN BE
19 CHANGED ON THAT STAGE. I OWE MY CAREER AS AN ARCHITECT TO
20 BUILDING STAGE SETS ON THAT STAGE. PILAR TORRES TOLD US A
21 STORY OF A STRUGGLING LATINO STUDENT THAT FOUND HIS CALLING ON
22 THAT STAGE TOO, AND IS NOW SUCCESSFULLY LIVING HIS DREAM. I
23 KNOW SO MANY PEOPLE WHO HAVE BEEN TRANSFORMED BY THEIR
24 EXPERIENCE ON THAT STAGE AND BEHIND THE SCENES. I ALSO HAVE A
25 LETTER OF SUPPORT FROM ANOTHER FAMOUS BLAIR ALUM, ELLIOT

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1 PFANSTIEHL, WHO THINKS THAT IT'S A PRETTY GOOD IDEA, TOO. BUT
2 ONLY--

3
4 **COUNCILMEMBER PEREZ:** YOU WERE DOING WELL UNTIL YOU GOT THERE.

5
6 **JULIA CASWELL-DAITCH:** ONLY UNTIL MY BROTHER WAS KILLED ON
7 SEPTEMBER 11TH DID I REALLY, REALLY UNDERSTAND THE TREMENDOUS
8 POTENTIAL FOR THIS MULTI-CULTURAL CENTER IDEA. FOR A LONG TIME
9 AFTER HIS DEATH, I WAS COMPLETELY SHATTERED. IT WAS THIS GREAT
10 COMMUNITY OF ARTISTS AND PERFORMERS OF HERITAGES FROM AROUND
11 THE WORLD THAT HELPED PUT ME BACK TOGETHER AGAIN. THROUGH ART,
12 DANCE AND MUSIC, THEY TAUGHT ME THAT I COULD FEEL JOY AGAIN.
13 AND I UNDERSTOOD WHAT A PRECIOUS JEWEL THIS DIVERSE AREA IS. I
14 SAW THE POWER OF THIS NEIGHBORHOOD, WHERE DIVERSITY IS NOT
15 JUST TOLERATED, IT IS EMBRACED. IT'S CELEBRATED. AND I BELIEVE
16 THAT THAT'S HOW THE WORLD SHOULD BE. WE HAVE A CHANCE, RIGHT
17 HERE AND NOW, TO CHANGE THE WORLD. INSTEAD OF KILLING EACH
18 OTHER, WE CAN CONSCIOUSLY DECIDE <BEEP> TO SPEND OUR TIME AND
19 OUR MONEY SHARING THE WONDERFUL KNOWLEDGE OF WEALTH THAT EACH
20 POSSESSES; LEARNING THAT, BY SHARING OUR CULTURES AND
21 STRENGTHS, WE CAN HELP EACH OTHER TO BE BETTER PEOPLE. IT IS
22 SO MUCH MORE POWERFUL TO BUILD BRIDGES THAN TO DESTROY THEM,
23 AND THEN WE HAVE NO TIME TO SPARE. THANK YOU.

24

25 **COUNCILMEMBER PEREZ:** THANK YOU. MS. FLOREEN?

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1

2 **JULIA CASWELL-DAITCH:** IS IT POSSIBLE FOR ME TO ACKNOWLEDGE
3 SOME OF THE PEOPLE IN THE AUDIENCE?

4

5 **COUNCILMEMBER PEREZ:** WE MET A LOT OF THEM AT THE PUBLIC
6 HEARINGS LAST WEEK. IF YOU ARE GOING TO ACKNOWLEDGE ALL 25 IN
7 THE AUDIENCE, I'D ASK YOU TO--

8

9 **JULIA CASWELL-DAITCH:** NO, I WAS THINKING OF OF JUST A FEW
10 IMPORTANT ONES--

11

12 **COUNCILMEMBER PEREZ:** SURE.

13

14 **JULIA CASWELL-DAITCH:** THAT REALLY DONATED A LOT OF TIME. DIANE
15 DELAY, SHE'S THE PRINCIPAL OF SLIGO CREEK ELEMENTARY SCHOOL.
16 MARY ANN SCOTT, WHO IS THE EXECUTIVE DIRECTOR OF THE DANIEL
17 PEARL FOUNDATION, WHO HAS DREAMS VERY MUCH LIKE OURS. BUSSY
18 GRAHAM OF CLASS ACTS, WHO IS AN INCREDIBLE FORCE TO BE
19 RECKONED WITH. ASTRID MELANA FROM CHORAL CONTIGAS. AND CARL
20 SANDERS, OLD BLAIR ALUM AND ARDENT SUPPORTER OF THIS PROJECT.

21

22 **COUNCILMEMBER PEREZ:** OKAY. THANK YOU. THANK YOU EVERYONE FOR
23 TAKING TIME OUT OF YOUR DAY TO SPEND TIME WITH US. MS.
24 FLOREEN?

25

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1 **COUNCILMEMBER FLOREEN:** THANK YOU. MS. GLENDENING, I JUST WANT
2 TO LET YOU AND THE OLNEY THEATER TEAM KNOW OF MY PERSONAL
3 RESEARCH OVER THE LAST TWO WEEKS. MY HUSBAND AND I HAVE HAD
4 THE PRIVILEGE OF ATTENDING A VARIETY OF PROFESSIONAL THEATERS
5 IN THE REGION, INCLUDING ONE OFF BROADWAY, AND I'VE GOT TO
6 TELL YOU, OMNIUM GATHERING AT OLNEY TAKES THE CAKE TAKES THE
7 CAKE, IS FABULOUS. YOU FOLKS ARE DOING THE RIGHT THING UP
8 THERE. I JUST WANTED TO SHARE THAT WITH YOU AND YOUR BOARD.

9

10 **JULIA CASWELL-DAITCH:** THE BOARD AND-- SO MANY PEOPLE WORKED
11 VERY HARD, AND WE'RE PROUD. THANK YOU VERY MUCH FOR
12 ACKNOWLEDGING US.

13

14 **COUNCILMEMBER FLOREEN:** THANK YOU.

15

16 **COUNCILMEMBER PEREZ:** MR. DENIS?

17

18 **COUNCILMEMBER DENIS:** THANK YOU MR. PRESIDENT. THANK YOU TO
19 BOTH WITNESSES. I JUST WANT TO SAY A PERSONAL WORD ABOUT
20 FRANCES GLENDENING. THANK YOU FOR ALL THE GREAT WORK THAT
21 YOU'VE DONE IN OUR STATE, AND FOR THE ARTS AND SO MANY OTHER
22 AREAS. JUST AS A PERSONAL REFERENCE, IF I MAY. YEARS AGO I HAD
23 THE GREAT HONOR OF WORKING FOR FRANCINE'S FATHER WHEN HE WAS
24 THE SENATE MINORITY LEADER, GEORGE HUGHES. IT WAS VERY FOND

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1 MEMORIES IN WORKING WITH HIM AND GOING UP TO HIS HOME. I GUESS
2 IT WAS YOUR HOME. CUMBERLAND?

3

4 **JULIA CASWELL-DAITCH:** YES, SIR. QUEEN CITY OF THE ALLEGANY,
5 SIR.

6

7 **COUNCILMEMBER DENIS:** IT STILL IS. GOING BACK AND FORTH, I
8 GUESS THAT'S WHERE WE FIRST MET. IF YOU THINK THAT YOU FEEL A
9 LITTLE UNUSUAL WITH YOUR SON BEING 25, IT MAKES ME-- IT JUST
10 MAKES ME FEEL GOOD TO SEE YOU HERE. I JUST WANTED TO WISH YOU
11 WELL AND THANK YOU FOR ALL OF YOUR EFFORTS. I ALSO JUST WANT
12 TO RECALL, AND I THINK MRS. PRAISNER AND I EMAILED ABOUT THIS
13 LAST WEEK, ABOUT THE OLNEY THEATER. BECAUSE WE ARE TRYING TO
14 FIGURE OUT HOW OLNEY GOT INTO THE STATE CATEGORY AS OPPOSED TO
15 THE COUNTY CATEGORY, AS THIS IS FIGURED IN ANNAPOLIS. ALSO I
16 WAS IN ANNAPOLIS WHEN THAT HAPPENED. VIC CRAWFORD, A STATE
17 SENATOR FROM THE 20TH DISTRICT, WENT DOWN WITH FATHER HARTGY
18 FROM CATHOLIC UNIVERSITY AND REQUESTED THAT THE OLNEY THEATER
19 BE NAMED AS THE STATE SUMMER THEATER, WHICH IT WAS. THEN, A
20 COUPLE OF YEARS LATER, HE CAME BACK AND SAID, "THE STATE
21 SUMMER THEATER NEEDS A NEW ROOF," OR SOMETHING OF THAT NATURE.
22 BUT IN ANY EVENT, I CERTAINLY HOPE THAT, IN A DIFFICULT BUDGET
23 YEAR, THAT WE CAN FIND ROOM FOR THE ARTS. I WANT TO THANK YOU
24 BOTH FOR YOUR TESTIMONY. THANK YOU.

25

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1 **COUNCILMEMBER PEREZ:** MR. LEVENTHAL?

2

3 **COUNCILMEMBER LEVENTHAL:** I ALSO WANT TO WELCOME MRS.

4 GLENDENING. IT'S ALWAYS GREAT TO SEE YOU, AND I HOPE TO SEE

5 YOU MORE OFTEN. I THINK IT'S EXCELLENT THAT YOU ARE HERE ON

6 BEHALF OF OLNEY THEATRE, AND I'M GLAD THAT MY NEIGHBORS AND

7 FRIENDS WHO ARE SUPPORTING OLD BLAIR PROJECT ARE HERE AS WELL.

8 IT'S A PROJECT THAT MEANS A LOT TO A LOT OF PEOPLE. I'M GLAD

9 THAT YOU'RE HERE TO HEAR THIS STRONG TESTIMONY FROM OLNEY

10 THEATER, AND I HOPE SOME OF YOU MAY BE ABLE TO STICK AROUND

11 FOR THE BUDGET DISCUSSION. WE'RE TRYING TO BALANCE A WHOLE LOT

12 OF DEMANDS AND WHEN THERE IS A NEW PROJECT, COMPLETELY IN THE

13 ABSTRACT, I MEAN WITHOUT PREJUDICE, THERE'S ALWAYS GOING TO BE

14 A LOT OF SCRUTINY OF ANYTHING NEW BECAUSE WE HAVE A LOT OF

15 ONGOING COMMITMENTS AND A LOT OF VERY PROMINENT AND WELL-

16 RESPECTED PEOPLE IN THE COMMUNITY ASKING US TO SUPPORT A LOT

17 OF DEMANDS ON THE BUDGET. SO I THINK YOU'RE SEEING THE CONTEXT

18 HERE THIS AFTERNOON THAT WE'RE DEALING WITH. I THINK IT'S

19 IMPORTANT TO PAINT THAT PICTURE. I APPRECIATE, BUSSY, THAT YOU

20 HAVE COME BACK IN RESPONSE TO MY QUESTION WITH A PLEDGE NOT TO

21 SEEK OPERATING SUPPORT. I HAVE READ IT. I MEAN, I GET IT. I

22 GET THE MESSAGE. IT IS A VERY INTERESTING RESPONSE, AND A

23 THOUGHTFUL AND INTELLIGENT RESPONSE. IN THE HEALTH AND HUMAN

24 SERVICES COMMITTEE, WE ARE GOING TO BE TALKING THIS YEAR AND

25 IN THE FUTURE ABOUT HOW DO WE FUND THE ARTS. I HAVE NOTED THAT

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1 YOU SAID THAT YOU WON'T ASK FOR OPERATING SUPPORT SEPARATE
2 FROM ANY OPERATING SUPPORT YOU MIGHT GET THROUGH THE ARTS AND
3 HUMANITIES COUNCIL, IN ADDITION TO REQUESTS THROUGH THE
4 PARTNERSHIP. I WILL SAY THAT MY GOAL, AND I'LL SAY THIS FOR
5 THE BENEFIT OF MY COLLEAGUES AND ALL THE ARTS LOVERS HERE, IS
6 THAT AT SOME POINT, I DOUBT THAT WE'LL GET THERE THIS YEAR,
7 BUT WE MIGHT TAKE A RUN AT IT. WE WILL ACTUALLY HAVE AN ARTS
8 AND HUMANITIES AGENCY. SINCE STATUTE ALREADY CREATES ONE, AND
9 IT IS CALLED THE ARTS AND HUMANITIES COUNCIL, I HOPE WE CAN
10 GET TO A PLACE WHERE WE HAVE ONE UNIFIED EFFORT TO SUPPORT A
11 HOPEFULLY AMPLE NUMBER FOR THE ARTS. I CAN'T IMAGINE HOW WE
12 WOULD FUNCTION. IT'S HARD ENOUGH TO FUNCTION NOW. I CAN'T
13 IMAGINE HOW WE WOULD FUNCTION IF EVERY SINGLE PARK TESTIFIED
14 FOR ITS OWN BUDGET OR EVERY SINGLE LIBRARY, ALTHOUGH WE HAVE A
15 LITTLE BIT OF THAT, TESTIFIED FOR ITS BUDGET SEPARATELY FROM
16 THE LIBRARY DEPARTMENT BUDGET, OR EVERY SINGLE ELEMENTARY
17 SCHOOL TESTIFIED FOR ITS BUDGET. LAST NIGHT WE HAD EVERY
18 CLUSTER TESTIFY, BUT NOT FOR SEPARATE FUNDING. BUT WITH THE
19 ARTS, SOMEHOW WE HAVE TO WEIGH, YOU KNOW. DO WE GIVE X TO OLD
20 BLAIR? DO WE GIVE Y TO OLNEY? WHAT DO WE GIVE TO STRATHMORE?
21 WHAT DO WE GIVE TO ADVENTURE THEATER? WHAT DO WE GIVE TO THE
22 PUPPET THEATER? WHAT DO WE GIVE TO THIS THEATER, AND THAT, AND
23 THIS WONDERFUL PROJECT, AND CARL CONTIGAS. AND THAT IS NOT A
24 GOOD MECHANISM FOR US TO MAKE WISE DECISION. WE ARE NOT
25 COMPARING APPLES TO APPLES, AND WE- I, I'LL SPEAK ONLY FOR

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1 MYSELF, AM NOT QUALIFIED TO MAKE JUDGMENTS ABOUT THE MERITS OF
2 DANCE VERSUS PAINTING OR, YOU KNOW, THESE SORTS OF THINGS. AND
3 SO IT'S GOING TO CONTINUE TO BE MY GOAL THAT WE HAVE AN ARTS
4 AND HUMANITIES AGENCY, WHICH HAS ALREADY- IT ALREADY EXISTS IN
5 LAW, THAT FULFILLS A ROLE SIMILAR TO THE ROLE THE LIBRARY
6 DEPARTMENT OR THE REC DEPARTMENT OR PUBLIC SCHOOLS PROVIDE. SO
7 I WILL SAY WITH RESPECT, BECAUSE YOU HAVE MOUNTED A TERRIFIC
8 EFFORT HERE, WHAT YOU HAVE SAID IN YOUR AGREEMENT IS NOT
9 PRECISELY WHAT I HAD IN MIND, BUT IT IS OKAY. I MEAN, YOU HAVE
10 ANSWERED THE QUESTION AND I THINK THAT IS A GOOD, STRONG
11 ANSWER. I GUESS WHAT WE SEE WITH RESPECT TO OUR-- THERE'S ONE
12 ISSUE THAT HAS TO DO WITH HOW DO WE FUND THE ARTS, WHAT IS THE
13 MECHANISM THAT WE USE TO MAKE DECISIONS ABOUT THE ARTS? I
14 THINK WE'VE GOT A SUB-OPTIMAL MECHANISM. [LAUGHTER]
15 [OVERLAPPING VOICES]
16

17 **COUNCILMEMBER LEVENTHAL:** THERE'S ANOTHER QUESTION. SO, THAT'S
18 ONE QUESTION. THERE IS A SEPARATE QUESTION THAT HAS TO DO WITH
19 HOW MANY COMMITMENTS CAN WE AFFORD? WE HAVEN'T ANSWERED THAT,
20 AND WE'RE NOT GOING TO ANSWER IT TODAY. BUT I'M GLAD THAT YOU
21 ALL ARE HERE TO SEE EVEN JUST A SMALL PIECE OF THE MANY GOOD,
22 VERY WORTHY PROJECTS THAT ARE ASKING US FOR SUPPORT.
23

24 **BUSY GRAHAM:** I DO FEEL AN URGENT NEED TO JUST--
25

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1 **COUNCILMEMBER LEVENTHAL:** COME TO THE MICROPHONE IF YOU'RE
2 GOING TO RESPOND, BUSY.

3

4 **BUSY GRAHAM:** WHAT IS CRITICAL TO--

5

6 **COUNCILMEMBER LEVENTHAL:** YOU NEED TO PRESS THE BUTTON, TOO.
7 YOU ARE ON TELEVISION.

8

9 **BUSY GRAHAM:** OKAY, THERE WE GO. THE CRITICAL DISTINCTION HERE
10 IS THAT WE ARE NOT CALLING THIS AN ARTS FACILITY. WE ARE
11 CALLING THIS A COMMUNITY AND CULTURAL FACILITY THAT WILL SERVE
12 A MULTITUDE OF NEEDS FAR BEYOND JUST THE ARTS AND HUMANITIES
13 COMMUNITY. WE ARE LOOKING TO SERVE THE NONPROFIT COMMUNITY,
14 PROVIDE A FACILITY THAT WILL BE AVAILABLE AT AN AFFORDABLE
15 COST TO PRESENT MAJOR FUNDRAISING EVENTS THAT WILL EFFECTIVELY
16 PROVIDE THE SUPPORT THAT THOSE NONPROFITS NEED. AND, IN FACT,
17 IT WILL LESSEN THE BURDEN ON THE PUBLIC DOLLARS, SO THAT WE
18 CAN BEGIN EARNING OUR OWN REVENUES TO AN EVEN GREATER EXTENT
19 THAN WE ARE ALREADY. I THINK THAT IS CRITICAL TO NOTE. IT'S
20 ALSO GOING TO BE-- WHAT THIS COUNTY DOES NOT HAVE IS A RENTAL
21 FACILITY OF A MID-SIZE. IT HAS BEEN ADDRESSED IN SO MANY WAYS,
22 MOSTLY THROUGH THE HUNDREDS AND HUNDREDS OF HOURS OF WASTED
23 EFFORT TRYING TO FIND FACILITIES IN THIS COUNTY WHERE WE CAN
24 PRESENT EVENTS. A LOT OF LOST REVENUES BECAUSE THESE GROUPS
25 ARE TAKING THEIR EVENTS TO D.C., TO PRINCE GEORGE'S COUNTY. WE

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1 ARE TALKING ABOUT A FACILITY THAT WILL EARN REVENUES FOR THIS
2 COUNTY. AND I THINK ALSO, NOT-- THE WHOLE SEPARATE PART ABOUT
3 HOW THIS WILL SERVE OUR EDUCATION COMMUNITY. OBVIOUSLY, WITH
4 THE TWO SCHOOLS RIGHT THERE THAT HOUSE 1,600 STUDENTS AND
5 TEACHERS, IMAGINE THE BENEFITS THIS FACILITY WILL REAP IN
6 TERMS OF EFFECTIVE INTEGRATION OF ARTS AND EDUCATION. THE
7 SPOTLIGHT IS SO MUCH ON THE ARTS AND HOW THEY CAN POSITIVELY
8 AFFECT LIVES. TALKING ABOUT MIDDLE SCHOOLS, PROVIDING A MODEL
9 FOR THE COUNTRY, NOT JUST FOR OUR COUNTY, FOR THE COUNTRY IN
10 HOW TO REACH THE YOUTH THAT ARE DISADVANTAGED OR HAVE
11 DIFFERENT APTITUDES AND ATTITUDES. THIS IS A WAY-- YOU KNOW,
12 WE'RE SPENDING A LOT OF TIME IN OUR YOUTH DETENTION AND
13 CORRECTIONAL FACILITIES. WE ARE FINDING THAT A LOT OF THESE
14 KIDS ARE ARTISTS. THEY'RE VISUAL ARTISTS, LITERARY ARTISTS,
15 PERFORMING ARTISTS. THOSE TALENTS WERE NEVER NURTURED. SO, I
16 WON'T TAKE TOO MUCH TIME, BUT I THINK--

17
18 **COUNCILMEMBER LEVENTHAL:** UNLIKE THE U.S. SENATE, WE DO NOT
19 HAVE UNLIMITED DEBATE HERE, SO--

20
21 **BUSY GRAHAM:** I JUST WANTED YOU TO UNDERSTAND THAT DISTINCTION.
22 FROM A PURELY POINT OF VIEW, IF YOU LET THIS ROT YOU'RE GOING
23 TO SPEND \$500,000 TEARING IT DOWN AND HAULING IT AWAY. WHY
24 CAN'T WE SPEND THAT MONEY FOR SOMETHING GOOD THAN BAD?

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1 **JULIE CASWELL-DAITCH:** IT IS A SAFETY, HEALTH, LIABILITY ISSUE.

2

3 **COUNCILMEMBER PEREZ:** MR. SILVERMAN?

4

5 **COUNCILMEMBER SILVERMAN:** THANK YOU, MR. PRESIDENT. I

6 APPRECIATE EVERYBODY COMING OUT, AND LOOK FORWARD TO WORK

7 SESSIONS ON THIS. I DID HAVE A COUPLE OF SPECIFIC QUESTIONS,

8 WHICH MAYBE WE CAN DISCUSS WHEN WE TAKE THIS UP. IN LIGHT OF

9 THE FACT THAT THE COLLEGE IS GOING TO HAVE A CULTURAL ARTS

10 CENTER WHICH IS PLANNED FOR COMPLETION IN 2008, WHICH IS 500

11 SEATS IN TAKOMA PARK, IT WOULD BE VERY IMPORTANT, I THINK, FOR

12 US TO KNOW WHICH ENTITIES-- AND I KNOW YOU'VE LISTED A BUNCH

13 IN THIS DRAFT BUSINESS PLAN THAT YOU WERE NICE ENOUGH TO DROP

14 OFF OF POTENTIAL USERS, BUT IT WOULD BE IMPORTANT TO KNOW

15 WHICH POTENTIAL USERS WOULD HAVE A NEED FOR A FACILITY OF THIS

16 SIZE AS OPPOSED TO 500 SEATS, SO WE CAN TAKE THAT UP DURING

17 THE WORK SESSION. THEN, I LOOK FORWARD TO A DISCUSSION ABOUT

18 THE PARKING SITUATION AS WELL BECAUSE THAT'S BEEN AN ISSUE

19 THAT'S BEEN EXPRESSED TO ME BY FOLKS IN THE ADJACENT COMMUNITY.

20 ALSO AT SOME POINT-- AND WE'VE DONE THIS IN THE PAST. IT'S

21 REALLY UP TO MR. LEVENTHAL AS CHAIR OF THE COMMITTEE, BUT WHEN

22 THERE HAVE BEEN REQUESTS BY ENTITIES FOR SUPPORT, SOMETIMES WE

23 HAVE HAD CLOSED SESSIONS TO DISCUSS THE POTENTIAL PRIVATE

24 FUNDRAISING. I KNOW YOU HAVE DONE A VERY GOOD JOB OF RAISING A

25 CERTAIN AMOUNT OF MONEY AT THIS POINT. YOUR BUSINESS PLAN

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1 SUGGESTS THAT YOU'RE GOING TO RAISE \$900,000 IN PRIVATE MONIES.
2 AND IN TERMS OF THE TIMING OF RESOURCES, IT WOULD BE IMPORTANT,
3 I THINK, FOR US TO HAVE SOME SENSE ABOUT WHERE THOSE MONIES,
4 OR WHAT PROSPECTS THERE MAY BE FOR THOSE MONIES BEING RAISED
5 IN THE PRIVATE SECTOR. SO, I'M GOING TO PROBABLY ASK THE CHAIR
6 OF THE COMMITTEE, MR. LEVENTHAL, WHEN WE MEET ON THIS, TO HAVE
7 A CLOSED SESSION TO DISCUSS WHAT- FOR US TO GET A BETTER SENSE.
8 THE REASON IT WOULD BE CLOSED SESSION IS BECAUSE WE ARE NOT
9 EXPECTING ANYBODY TO PUBLICLY DISCUSS PROSPECTS THAT ARE OUT
10 THERE. THAT'S AN INAPPROPRIATE THING TO DO FOR ANY
11 ORGANIZATION, ARTS OR OTHERWISE. I THINK IT WOULD BE VERY
12 IMPORTANT FOR US TO GET A SENSE OF.

13
14 **BUSY GRAHAM:** CAN I MAKE JUST ONE POINT ABOUT THAT?

15
16 **COUNCILMEMBER SILVERMAN:** YES.

17
18 **BUSY GRAHAM:** I THINK THAT THE PUBLIC MONEY HELPS TO LEVERAGE
19 THE PRIVATE MONEY. IF THE PUBLIC MONEY IS THERE, THE PRIVATE
20 MONEY WILL COME. IF THE PUBLIC MONEY ISN'T THERE, THEY WON'T
21 BELIEVE IT'S GOING TO HAPPEN AND THEY WON'T INVEST.

22
23 **JULIA CASWELL-DAITCH:** THE AMOUNT WE HAVE TO RAISE IS BETWEEN
24 \$400,000 TO \$900,000, DEPENDING ON IF WE WIND UP WITH \$1.5 OR

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1 \$2 MILLION. THAT IS THE RANGE, AND WE'RE PROBABLY SOMEWHERE IN
2 THE MIDDLE.

3

4 **COUNCILMEMBER SILVERMAN:** YEAH, I KNOW THERE IS A CHICKEN-AND-
5 EGG SCENARIO TO EVERYTHING, AND IT'S CLEAR THAT WE HAVE TO
6 ADDRESS ALL THAT. I DO WANT TO CLARIFY SOMETHING. MY
7 UNDERSTANDING IS THAT THE STATE BOND BILL REQUIRES A MATCH. IT
8 DOES NOT-- FROM ALL SOURCES. IT DOES NOT REQUIRE A COUNTY
9 MATCH, SO I WOULD RESPECTFULLY SAY RIGHT FROM THE OUTSET THAT
10 THE STATE OF MARYLAND HAS ALREADY INDICATED IT IS PREPARED TO
11 PUT PUBLIC DOLLARS IN, SO THAT SHOULD PROVIDE AN OPPORTUNITY
12 AT THIS POINT TO EXPLORE PRIVATE SECTOR INTEREST.

13

14 **BUSY GRAHAM:** ABSOLUTELY. THAT HAS KICK-STARTED OUR EFFORT, AND
15 WE ARE LAUNCHING OUR PRIVATE FUNDRAISING EFFORT NEXT MONTH.
16 BUT IT IS A PARTNERSHIP ACROSS THE SPECTRUM, TO BE ABLE TO SAY
17 EVERYBODY IS DOING THEIR PART IS BUILDING MOMENTUM. AND WE DO
18 THINK IT IS APPROPRIATE FOR THE COUNTY TO PAY A SMALL PORTION
19 TOWARD THIS, FOR THE CAPITAL TO ENABLE THE AUDITORIUM REOPEN.
20 THAT'S REALLY WHAT WE ARE ASKING FOR, A FINITE PIECE OF CHANGE
21 THAT WILL HELP SOMETHING MUCH BIGGER, THAT'S GOING TO BE OF
22 VALUE WELL BEYOND \$500,000. OF COURSE THE \$190,000 IN COUNTY
23 EXECUTIVE DOUG DUNCAN'S BUDGET IS FOR THE DESIGN PHASE, WHICH
24 IS A GOOD PLACE TO START. SO, AT A MINIMUM WE HOPE WE WILL GET
25 THAT--

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1

2 **JULIA CASWELL-DAITCH:** IT IS ALSO VERY HARD TO SELL A PROJECT
3 IF YOU HAVEN'T GONE THROUGH THE DESIGN PHASE AND KNOW REALLY,
4 EXACTLY WHAT'S GOING TO HAPPEN.

5

6 **COUNCILMEMBER SILVERMAN:** RIGHT. THANK YOU. I LOOK FORWARD TO
7 OUR WORK SESSIONS.

8

9 **COUNCILMEMBER LEVENTHAL:** I HAVE QUICK QUESTION FOR MRS.
10 GLENDENING. IS OLNEY THEATER AVAILABLE FOR RENT FOR
11 PERFORMANCES?

12

13 **FRANCES GLENDENING:** YES.

14

15 **COUNCILMEMBER LEVENTHAL:** I THOUGHT SO.

16

17 **FRANCES GLENDENING:** IT IS. WE HAVE ALSO EDUCATIONAL PROGRAMS
18 IN THE COMMUNITY AS WELL.

19

20 **COUNCILMEMBER LEVENTHAL:** BUT BOTH LARGE AND SMALL THEATERS?

21

22 **FRANCES GLENDENING:** THAT'S CORRECT.

23

24 **COUNCILMEMBER LEVENTHAL:** I THOUGHT SO.

25

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1 **COUNCILMEMBER PEREZ:** MS. PRAISNER?

2

3 **COUNCILMEMBER PRAISNER:** I GUESS I HAVE ANOTHER QUESTION THAT
4 IS ACTUALLY NOT DIRECTED AT THE COMMUNITY, BUT AT THE SCHOOL
5 SYSTEM. LAST TIME I LOOKED, THIS BUILDING WAS BEING USED,
6 ABSENT THE AUDITORIUM, AS A PUBLIC BUILDING. WHEN THE SCHOOL
7 SYSTEM WENT THROUGH THE FACILITY ASSESSMENT PROCESS, WHICH IS
8 LEGALLY REQUIRED AND WAS DONE THROUGH-- I REALLY DON'T WANT AN
9 ANSWER FROM THE COMMUNITY. I JUST WANT YOU TO BE CLEAR ABOUT
10 THIS. I WANT AN ANSWER FROM THE SCHOOL SYSTEM, AND THIS IS
11 BEING DIRECTED TO STAFF TO GET THE ANSWERS FROM M.C.P.S. WHAT
12 WAS THE ASSESSMENT OF THE BUILDING, AND DID IT INCLUDE THE
13 AUDITORIUM WHEN THE C.O.P. COMMISSION REVIEW WENT THROUGH AND
14 ASSESSED ALL PUBLIC BUILDINGS? UNDER WHAT AUTHORITY IS THE
15 SUPERINTENDENT OF SCHOOLS NOT MAINTAINING THE BUILDING IN ITS
16 ENTIRETY AT THIS POINT? WHAT JUDGMENT IS THERE THAT THE REST
17 OF THE BUILDING'S HEATING, ET CETERA, IS NOT DAMAGED OR
18 AFFECTED BY THIS PART OF THE BUILDING BEING CLOSED OFF? AND
19 UNDER WHAT AUTHORITY IS THE SUPERINTENDENT EITHER ENTERING
20 INTO ANY RELATIONSHIPS FOR A PORTION OF THE BUILDING THAT IS
21 NOT CONSISTENT WITH THE COMMUNITY USE OF PUBLIC FACILITIES
22 PROCESS? THOSE ARE THE QUESTIONS. I'D LIKE STAFF TO GET
23 ANSWERS FROM THE SUPERINTENDENT.

24

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1 **COUNCILMEMBER PEREZ:** GREAT. THERE ARE NO OTHER QUESTIONS.
2 THANK YOU TO EVERYBODY FOR COMING. I WAS A LITTLE DISAPPOINTED
3 THAT YOU DIDN'T ACKNOWLEDGE MY FRIEND CINDY OUT THERE, MY
4 FRIEND MARK, BUT WE'LL--

5

6 **JULIA CASWELL-DAITCH:** OH, I DIDN'T SEE HER! PRESIDENT OF THE
7 SLIGO CREEK PARENT-TEACHER ASSOCIATION. SHE'S A MARVEL--

8

9 **COUNCILMEMBER PEREZ:** YES, MY GOD. THE P.T.A. PRESIDENT AT
10 SLIGO CREEK DOESN'T EVEN GET ACKNOWLEDGED, BUT WE'LL--
11 [OVERLAPPING VOICES]

12

13 **COUNCILMEMBER PEREZ:** WE WILL OVERLOOK THAT.

14

15 **JULIA CASWELL-DAITCH:** HEY, I'M UNDER PRESSURE, WHAT DO YOU
16 WANT?

17

18 **FRANCES GLENDENING:** ONE LAST THING. I WAS SPEAKING WITH
19 COUNCILMEMBER DENIS EARLIER, BEFORE WE STARTED THE PROCEEDINGS.
20 HE AND I BOTH HAVE BOTH WORKED-- MY DAY JOB IS IN WASHINGTON
21 AT THE FEDERAL ELECTION COMMISSION. NO STRESS THERE. BUT TO BE
22 HONEST ABOUT IT, I HAVE BEEN PART OF GOVERNMENT AT EVERY LEVEL
23 AND I KNOW HOW DIFFICULT YOUR DECISIONS ARE HERE. YOU ARE
24 GETTING PRESS-- PEOPLE FROM THE LOCALITIES ARE PRESSING UP, AS
25 COUNCILMEMBER DENIS SAID, AND THEN THE FEDERAL AND STATE

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1 GOVERNMENT IS PUSHING THINGS DOWN. I KNOW IT IS VERY DIFFICULT.
2 IT IS NOT A DECISION BETWEEN GOOD AND EVIL, AS HAS BEEN VERY
3 BEAUTIFULLY DEMONSTRATED HERE. IT IS BETWEEN SO MANY IMPORTANT
4 THINGS. I JUST SAY "MAY THE FORCE BE WITH YOU" BECAUSE I KNOW
5 IT IS EXTREMELY DIFFICULT. YOU CERTAINLY ARE DOING VERY
6 IMPORTANT WORK. THANK YOU SO MUCH.

7

8 **COUNCILMEMBER PEREZ:** THANK YOU. THANK YOU FOR COMING. OKAY. WE
9 WILL RETURN TO--

10

11 **COUNCILMEMBER FLOREEN:** [INAUDIBLE]

12

13 **COUNCILMEMBER PEREZ:** YES.

14

15 **COUNCILMEMBER SILVERMAN:** WE ARE MISSING MR. SUBIN.

16

17 **COUNCILMEMBER PEREZ:** LET'S RETURN TO OUR DISCUSSION OF THE--
18 YEAH, MARK WAS HERE, YEAH.

19

20 **COUNCILMEMBER PRAISNER:** HE'S NOT HIDING IN HIS NORMAL PLACE.

21

22 **COUNCILMEMBER PEREZ:** LIKE COLONEL FLAGG, HE IS SOMETIMES LIKE
23 THE WIND. OKAY. WHEN WE LEFT OFF-- WE WILL GIVE PEOPLE A--

24 [OVERLAPPING VOICES]

25

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1 **COUNCILMEMBER PEREZ:** GREAT. MAYBE WHAT I WILL DO IS TURN TO
2 YOU, MIKE AND SONYA. ONCE IN A WHILE, WE SAY SOMETHING IS HOT
3 OFF THE PRESSES. THIS FEELS WARM TO ME.

4

5 **SONYA HEALY:** AND IT IS. IT'S STILL WARM.

6

7 **COUNCILMEMBER PEREZ:** OKAY, SONYA AND MIKE, DO YOU WANT TO-- I
8 THINK IT MIGHT BE MOST EFFICIENT IF YOU SIMPLY TAKE US THROUGH.
9 WE ALL RECALL WHERE WE LEFT OFF, AND WE WERE TRYING TO ADDRESS
10 SOME OF THE WORDSMITHING GAPS THAT WERE CRITICAL.

11

12 **SONYA HEALY:** OKAY. AS PART OF BUILDING BACK IN THE LOCAL
13 REQUIREMENT, AS MR. LEVENTHAL HAD RECOMMENDED, ON LINE 35 YOU
14 WILL SEE WE HAVE CHANGED THE DEFINITION WHICH USED TO JUST
15 DEAL WITH SMALL BUSINESS. NOW IT'S A LOCAL SMALL BUSINESS.
16 THAT MEANS A BUSINESS OTHER THAN A BROKER THAT GENERATES A
17 SIGNIFICANT AMOUNT OF ECONOMIC ACTIVITY IN THE COUNTY, IS
18 INDEPENDENTLY OWNED AND OPERATED, IS NOT A SUBSIDIARY OF
19 ANOTHER BUSINESS, AND MEETS THE CRITERIA, SIZE LIMITS AND
20 GROSS SALES AMOUNTS AS ESTABLISHED BY METHOD TWO REGULATIONS.
21 SO, IF COUNCIL IS ALL RIGHT WITH THAT.

22

23 **COUNCILMEMBER PEREZ:** OKAY.

24

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1 **SONYA HEALY:** THEN, SKIPPING FORWARD TO LINE 89, THIS WAS THE
2 DISCUSSION THAT WE HAD ABOUT WHAT SHOULD BE BACKED OUT OF THE
3 TOTAL DOLLAR AMOUNTS FOR USING DEPARTMENTS. WHAT WE SAID HERE
4 IS THAT IT DOES NOT INCLUDE THE VALUE OF ANY CONTRACT TO WHICH
5 THIS ARTICLE DOES NOT APPLY BECAUSE OF A CONFLICT WITH STATE
6 OR FEDERAL LAW OR GRANT REQUIREMENT, A PRE-EXISTING CONTRACT
7 EXECUTED BY THE COUNTY, A NON-COMPETITIVE CONTRACT AWARD MADE
8 UNDER SECTION 11-B-14, A PUBLIC ENTITY OR EMERGENCY
9 PROCUREMENT. AND, C.O.G. CONTRACTS WOULD FALL UNDER THAT.
10 WAIVERS MADE UNDER 11-B-67F, AWARDS MADE UNDER AN OPEN
11 SOLICITATION AS PROVIDED IN SECTION 11-B-40, ANY PROCUREMENT
12 WHERE NO LOCAL SMALL BUSINESS IS QUALIFIED OR ABLE TO PERFORM
13 THE CONTRACT, OR ANY PROCUREMENT THAT WOULD CAUSE THE USING
14 DEPARTMENT TO EXCEED DOLLAR LIMIT SET UNDER SECTION 11-B-68-A3.
15 THIS IS AN ISSUE THAT COUNCIL NEEDS TO GO BACK TO, TO DECIDE
16 ON.

17
18 **COUNCILMEMBER LEVENTHAL:** COULD I JUST SEE THE DEFINITION OF
19 11-B-40, OPEN SOLICITATION?

20
21 **SONYA HEALY:** SURE.

22
23 **COUNCILMEMBER LEVENTHAL:** WHILE WE ARE GOING THROUGH, MAYBE WE
24 CAN HAVE COPIES FOR ALL COUNCIL MEMBERS?

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1 **SONYA HEALY:** SURE. THEN THE NEXT SECTION WHERE WE'VE MADE
2 CHANGES STARTS AT LINE 110. THIS IS THE PROCEDURES FOR THE
3 USING DEPARTMENTS TO FOLLOW, TO DEAL WITH WHAT MR. KNAPP
4 RAISED EARLIER. ANY PROCUREMENTS BY A USING DEPARTMENT FOR
5 GOODS, SERVICE OR CONSTRUCTION IS ELIGIBLE FOR DESIGNATION FOR
6 THE LOCAL SMALL BUSINESS RESERVE BY THE USING DEPARTMENT
7 DIRECTOR OR DESIGNEE, EXCEPT ANY PROCUREMENT THAT WOULD BE
8 EXCLUDED UNDER THE SECTIONS I JUST MENTIONED, WHICH WAS THE
9 EIGHT EXCEPTIONS THAT I JUST RAN THROUGH. SO, THEY WOULD NOT
10 BE SUBJECT TO ANY OF THOSE CONDITIONS AND IT WOULD BACK OUT
11 ALL THOSE CONTRACTS. ON PAGE SEVEN, BOTTOM OF PAGE SEVEN, IT
12 JUST STIPULATES WHAT WOULD BE ESTABLISHED UNDER REGULATION.
13 NUMBER THREE WAS CHANGED TO "DEFINE WHAT CONSTITUTES A
14 SIGNIFICANT AMOUNT OF ECONOMIC ACTIVITY" TO RELATE BACK TO THE
15 DEFINITION OF LOCAL SMALL BUSINESS. THAT WOULD BE DONE THROUGH
16 EXECUTIVE REGS. IDENTIFY OUTREACH METHODS AND MARKETING
17 STRATEGIES TO INFORM LOCAL SMALL BUSINESSES OF PROGRAM, AS
18 SUGGESTED BY MR. KNAPP. LIMIT THE TOTAL DOLLAR AMOUNT OF
19 INDIVIDUAL CONTRACT AWARDS THAT ARE ELIGIBLE FOR THE PROGRAM.
20 AND THAT, AGAIN, GOES BACK TO AN ISSUE FOR YOU TO DECIDE UPON.
21 THOSE WERE THE CHANGES.

22
23 **COUNCILMEMBER LEVENTHAL:** OKAY. THANK YOU. THESE CHANGES DO NOT
24 ADDRESS THE ISSUE, THEN, OF THE BRIDGE CONTRACTS. THIS DOESN'T
25 ADDRESS THAT?

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1

2 **MICHAEL FADEN:** ONE ERROR WE MADE, GO BACK TO LINE 101. THAT
3 SHOULD READ, I THINK, INSTEAD OF "OPEN SOLICITATION,"
4 "COOPERATIVE PROCUREMENT", WHICH DOES-- SORRY, PROPERTY
5 PROCUREMENT, WHICH IS THE 11-B-40.

6

7 **COUNCILMEMBER PEREZ:** COULD YOU SAY THAT AGAIN?

8

9 **MICHAEL FADEN:** YEAH, THE REFERENCE ON LINE 101 SHOULD SAY
10 "AWARDS MADE UNDER A COOPERATIVE PROCUREMENT, AS PROVIDED IN--

11

12 **SONYA HEALY:** INSTEAD OF AN OPEN SOLICITATION?

13

14 **MICHAEL FADEN:** RIGHT. COOPERATIVE PROCUREMENT, ESSENTIALLY, IS
15 WITH ANOTHER PUBLIC ENTITY, AND WOULD COVER--

16

17 **COUNCILMEMBER PRAISNER:** SO, WOULDN'T BE ELIGIBLE ANY WAY.

18

19 **MICHAEL FADEN:** THAT IS-- IT ASSUMES -- WELL, I'M GOING ASK
20 MARC FOR CONFIRMATION ON WHAT THE DIFFERENCES ARE BETWEEN
21 PROPERTY PROCUREMENT FOR THAT SECTION AND A BRIDGE CONTRACT
22 UNDER PROVISION TWO SECTIONS AFTER THAT.

23

24 **MARC HANSEN:** COOPERATIVE PROCUREMENT IS WHERE TWO PUBLIC
25 ENTITIES, TWO GOVERNMENTS FOR EXAMPLE, WILL ISSUE A JOINT

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1 SOLICITATION. FOR EXAMPLE, THE WAY WE BUY FUEL THROUGH C.O.G.
2 IS A COOPERATIVE PROCUREMENT. SEVERAL JURISDICTIONS BAND
3 TOGETHER, AND THEY ISSUE A SINGLE SOLICITATION ASKING FOR BIDS.
4 BRIDGE CONTRACT IS DIFFERENT. BRIDGE CONTRACT IS A SITUATION
5 WHERE MONTGOMERY COUNTY DECIDES WE ARE GOING TO PIGGYBACK ONTO
6 A COMPETITIVE PROCESS THAT'S ALREADY DONE BY ANOTHER PUBLIC
7 ENTITY UNDER THE THEORY, "WHY DO WE NEED TO DO IT AGAIN IF
8 THAT PUBLIC ENTITY HAS ALREADY SOLICITED BIDS, GOT A GOOD BID,
9 BUYING A PRODUCT THAT WE WANT TO BUY?" WE WILL JUST PIGGYBACK
10 ONTO THEIR COMPETITIVE PROCESS AND DIRECTLY CONTRACT WITH THE
11 WINNER OF THAT COMPETITIVE PROCESS THAT WAS RUN BY ANOTHER
12 GOVERNMENT OR PUBLIC ENTITY

13
14 **COUNCILMEMBER LEVENTHAL:** MAY I? MR. PRESIDENT?

15
16 **COUNCILMEMBER PEREZ:** YES.

17
18 **COUNCILMEMBER LEVENTHAL:** TO OPEN THE CONVERSATION ON THAT
19 POINT, AND THAT WAS THE POINT WHERE WE LEFT FOR LUNCH, I GUESS
20 MY INITIAL INCLINATION ON THAT IS I UNDERSTAND WHY WE WOULD
21 ENTER INTO VOLUME PURCHASE AGREEMENTS WITH OTHER GOVERNMENTS.
22 I UNDERSTAND THE BENEFIT TO THE GOVERNMENT, AND TO THE
23 TAXPAYER, OF DOING THAT. BUT I GUESS WHAT I'M NOT CLEAR ON IS,
24 WHY CAN'T WE JUST INCLUDE THOSE IN THE 90%? WHY DO WE NEED TO
25 EXEMPT THEM FROM THE 10% REQUIREMENT? SO I'D JUST START OUT BY,

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1 I GUESS, TAKING THE POSITION THAT INITIALLY-- I'M EAGER TO
2 HEAR MORE CONVERSATION ON THIS POINT. IT SEEMS TO ME THAT A
3 10% SMALL BUSINESS RESERVE FOR ALL COUNTY PROCUREMENT SHOULD
4 NOT IMPEDE THE COUNTY'S ABILITY TO ENTER INTO LOCAL GOVERNMENT
5 PURCHASING AGREEMENTS AND TO ACHIEVE THE BENEFITS OF THOSE,
6 BUT IT SEEMS TO ME THOSE OUGHT TO BE INCLUDED IN THE 90%.

7

8 **MARC HANSEN:** THEY ARE. I THINK WHAT IT IS INTENDED TO ADDRESS
9 IS A SITUATION LIKE WITH DEPARTMENT OF PUBLIC WORKS AND
10 TRANSPORTATION, WHERE THE FUEL PURCHASE WOULD BE FROM THEIR
11 DEPARTMENT. AND IT'S THE KIND OF PURCHASE WE DO COOPERATIVELY,
12 WHERE THERE ARE VERY LARGE PROCUREMENTS AND THEY COULDN'T BE
13 ADDRESSED NORMALLY BY A SMALL BUSINESS. IT'D HAVE TO BE A
14 LARGE ENTITY.

15

16 **COUNCILMEMBER LEVENTHAL:** SO THEREFORE, IT WOULD FIT WITHIN THE
17 90%.

18

19 **COUNCILMEMBER KNAPP:** EXACTLY. WHAT I'M TRYING TO SAY IS
20 D.P.W.T. WOULD HAVE A HARDER TIME MAKING THE 10% REQUIREMENT,
21 BECAUSE NO SMALL BUSINESS WOULD BE ABLE TO QUALIFY FOR, YOU
22 KNOW, WOULD BE ABLE TO BID.

23

24 **COUNCILMEMBER PRAISNER:** SO YOU WANT TO EXCLUDE THOSE FROM THE
25 TOTAL AMOUNT THAT YOU THEN APPLY 10% TO?

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1

2 **MARC HANSEN:** YES.

3

4 **COUNCILMEMBER LEVENTHAL:** I UNDERSTAND WHAT YOU WANT.

5

6 **COUNCILMEMBER PRAISNER:** THAT'S HIS ARGUMENT. I DO UNDERSTAND
7 THAT POINT. IT SEEMS TO ME THAT-- MY STARTING POSITION TO
8 START THIS CONVERSATION IS NOT THAT. THE STARTING POSITION
9 WOULD BE THAT, IF A LOT OF PROCUREMENTS ARE DONE THROUGH THESE
10 JOINT PURCHASING AGREEMENTS, AND THIS IS WHAT MS. FLOREEN AND
11 MR. SUBIN WERE SAYING EARLIER, YOU CREATE THE OPPORTUNITY TO
12 OBLITERATE THE IDEA OF A SMALL BUSINESS RESERVE ALTOGETHER.
13 YOU COULD PURCHASE MORE AND MORE AND MORE QUANTITIES OF GOODS
14 AND SERVICES THROUGH THESE JOINT PURCHASING AGREEMENTS AND
15 THERE WOULD BE BENEFITS FROM DOING THAT. AND I WOULD NOT BE
16 OPPOSED TO THAT, BUT SEEMS TO ME THAT, BY KEEPING THOSE WITHIN
17 90%, YOU STILL MAINTAIN THE PURPOSE OF THE BUSINESS RESERVE.
18 WHEREAS, IF YOU EXEMPT THOSE OUT-- AND WE DON'T HAVE ANY DATA
19 TO GO ON HERE. NOBODY CAME PREPARED TO ADDRESS THIS. OUT OF
20 THE TOTAL D.P.W.T. BUDGET, WHAT PERCENT OF THE D.P.W.T. BUDGET
21 DOES FUEL REPRESENT? NO ONE HAS THAT NUMBER, SO WE DON'T KNOW
22 THE ANSWER. BUT AGAIN MY STARTING POSITION WOULD BE YES, JOINT
23 PURCHASING AGREEMENTS ARE GOOD. WE ALL GET THE BENEFIT OF IT,
24 AND THEY SHOULD BE INCLUDED IN THE 90%. BUT I'M NOT, AT THIS
25 MOMENT, INCLINED TO EXEMPT ALL OF THAT IN CALCULATING THE 10%.

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1 THAT IS NOT WHERE I'M AT RIGHT NOW. I'M WILLING TO LISTEN TO
2 THE CONVERSATION.

3

4 **COUNCILMEMBER PRAISNER:** FROM MY PERSPECTIVE, IT WOULD SEEM TO
5 ME THAT IF YOU WANT TO GO THAT ROUTE THEN YOU MIGHT WANT TO
6 HAVE TO DEVELOP, AFTER YOU HAVE THE INFORMATION, WHICH WE
7 DON'T HAVE AS YET, SOME THRESHOLD LEVELS AS TO PERCENTAGE OF
8 THE CONTRACT OR THE PERCENTAGE DIFFERENCE IN COST BEFORE YOU
9 WENT FORWARD WITH THOSE KINDS OF CONTRACTS. SO IN OTHER WORDS,
10 IF YOU DEMONSTRATE THAT IT IS GOING TO COST THE TAXPAYERS OF
11 THE COUNTY X PERCENT MORE TO GO THIS ROUTE, YOU EXCLUDE IT OUT.
12 THAT MAKES FOR A MUCH MORE COMPLICATED PROGRAM, BUT IT MIGHT
13 NEED TO BE THE DIRECTION IN WHICH ONE GOES WITHOUT INFORMATION,
14 OR MAYBE AFTER THAT INFORMATION.

15

16 **COUNCILMEMBER PEREZ:** MR. SUBIN?

17

18 **COUNCILMEMBER SUBIN:** THANKS, MR. PRESIDENT. BUT YOU DO NOT
19 HAVE TO GO THROUGH A BRIDGE CONTRACT? YES, YOU DO? NO, YOU
20 DON'T?

21

22 **COUNCILMEMBER PRAISNER:** NO, YOU DON'T. YOU CAN SPEND MORE
23 MONEY.

24

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1 **COUNCILMEMBER SUBIN:** WELL, IF THE ASSUMPTION IS THAT YOU ARE
2 SPENDING MORE MONEY, THEN YOU AUTOMATICALLY MAKE THIS BILL
3 SUSPECT, THAT ALL WE ARE OUT TO DO IS SPEND MORE MONEY WHEN IN
4 FACT, SMALL BUSINESSES MAY HAVE LOWER PRICES THAN BIG
5 BUSINESSES BECAUSE THEY DON'T HAVE THE SAME OVERHEAD. I DON'T
6 THINK IT IS FAIR TO THE DRAFTERS OF THIS BILL TO MAKE THE
7 ASSUMPTION THAT JUST BECAUSE YOU ARE GOING THROUGH A SMALL
8 BUSINESS AND NOT ONE OF THESE BRIDGE CONTRACTS, IT IS GOING TO
9 COST MORE MONEY. WE HAVEN'T SAVED MUCH MONEY WITH THESE
10 "GIGUNDA" HEALTH CARE INSURANCE POLICIES AND POOLING ALL THE
11 COUNTY GOVERNMENT EMPLOYEES.

12
13 **COUNCILMEMBER PRAISNER:** BUT WE DO HAVE INFORMATION ON HOW MUCH
14 MONEY WE HAVE SAVED BY BRIDGING ON CERTAIN CONTRACTS. N.A.C.O.
15 PROVIDES INFORMATION TO THE COUNTY ON HOW MUCH MONEY THE
16 COUNTIES HAVE SAVED BY BRIDGING THROUGH STAPLES AND OTHER
17 PURCHASES. SO, MY POINT IS ONLY THE REASON WHY YOU WOULD DO A
18 BRIDGE IS BECAUSE THAT IS THE MOST ECONOMICAL CHOICE, NOT THAT
19 YOU DO IT JUST TO DO IT.

20
21 **COUNCILMEMBER SUBIN:** WELL, I THINK THAT THAT IS NOT A FAIR
22 ASSUMPTION, NUMBER ONE. NUMBER TWO, N.A.C.O., WE PAY DUES TO
23 N.A.C.O. ONLY FOR N.A.C.O. TO GO AHEAD AND VOTE AGAINST OUR
24 BEST INTEREST IN THE LEGISLATURE. SO, YOU KNOW, JUST BECAUSE
25 IT'S--

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1

2 **COUNCILMEMBER PRAISNER:** I'M NOT TALKING ABOUT M.A.C.O--

3

4 **COUNCILMEMBER SUBIN:** JUST BECAUSE IT'S THROUGH MN.A.C.O., YOU
5 MAY BE ABLE TO SAY "WE SAVED X AMOUNT OF DOLLARS THROUGH THE
6 BRIDGE CONTRACT," BUT THAT DOESN'T MEAN YOU WOULDN'T HAVE
7 SAVED MORE BY BUYING THROUGH A SMALL BUSINESS. AND, THAT
8 UNDERMINING IS REALLY NOT LETTING ME GET AT MY QUESTION. SO A,
9 YOU DON'T HAVE TO GO THROUGH THE BRIDGE CONTRACT AND B, BY
10 SAYING FOR WHATEVER REASON THAT THE BRIDGE CONTRACT IS GOING
11 TO BE PART OF THE 90%, WHAT WE'RE REALLY SAYING IS THAT,
12 RATHER THAN THE 10% OF THE PROCUREMENT THAT'S SUPPOSED TO GO
13 THROUGH SMALL BUSINESS, YOU'RE EFFECTIVELY SAYING IT WILL BE
14 1%.

15

16 **JOE BEACH:** IF I COULD. THE INTENT WAS TO MAKE IT, THE 10%,
17 MORE ACHIEVABLE FOR DEPARTMENTS. THAT WAS OUR INTENT. IF
18 DEPARTMENTS ARE HAVING TROUBLE MAKING THAT BECAUSE OF LARGE
19 PROCUREMENTS LIKE THIS WHERE, MR. KNAPP MENTIONED, THERE IS
20 NOT A LOCAL SMALL BUSINESS THAT COULD PROVIDE IT, WE WILL
21 ALERT THE COUNCIL TO THAT.

22

23 **COUNCILMEMBER SUBIN:** BUT IF IT IS COUNCIL POLICY TO DO 10% AND
24 YOU DON'T HAVE TO GO THROUGH THE BRIDGE CONTRACT FOR CERTAIN
25 COMMODITIES OR ANY GIVEN COMMODITIES, THEN IT'S 10%. THE

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1 EXECUTIVE CAN EITHER ABIDE BY THE POLICY OF THE COUNCIL AND
2 THE LAW, OR ANSWER BACK TO THE COUNCIL ON WHY IT WASN'T DONE.
3 YOU KNOW, I THINK IT'S THAT SIMPLE. YOU KNOW THAT THE LAW SAYS
4 10%, AND SO THE DEPARTMENT DIRECTORS, PROCUREMENT, WHOEVER,
5 HAS TO PUT INTO THAT POOL THE CONSIDERATION OF THOSE BRIDGE
6 CONTRACTS OR NOT. AND IF YOU WANT TO GO THROUGH THE DESKMATE
7 EXAMPLE THAT MR. SILVERMAN GAVE EARLIER AND YOU WANT 100
8 CHAIRS, THEN GO THROUGH THE MONTGOMERY COUNTY SMALL BUSINESS
9 COMMUNITY TO GET YOUR 100 CHAIRS. DON'T GO TO PRINCE GEORGES'
10 COUNTY, WHERE IT COULD THEORETICALLY BE MORE EXPENSIVE TO GET
11 THOSE 100 CHAIRS BECAUSE YOU ARE ONLY GETTING 100, WHEN YOUR
12 COST SAVINGS MAY NOT KICK IN UNTIL YOU GET 1,000 CHAIRS. SO,
13 WITH THOSE GROUND RULES, I THINK IT WOULD BE A MISTAKE TO
14 EXEMPT OUT THE TOTALS FROM THOSE BRIDGE CONTRACTS. YOU KEEP
15 THAT NUMBER IN THERE AND, IF YOUR PROCUREMENT NUMBER IS \$1,000,
16 THEN \$100 COMES THROUGH SMALL BUSINESS BY HOOK, CROOK, OR
17 WHATEVER WAY YOU GET THOSE BIDS IN.

18
19 **COUNCILMEMBER PEREZ:** THERE'S THREE LIGHTS ON. LET ME ASK THE
20 FOLLOWING QUESTION, I GUESS OF MY COLLEAGUES. PUTTING ASIDE
21 THIS ISSUE, PRESIDENT LINCOLN, IS THERE-- WE HAVE -- SONYA HAS
22 GONE THROUGH THE VARIOUS CHANGES. I DON'T KNOW IF SHE WENT
23 THROUGH ALL OF THEM.

24
25 **SPEAKER:** I THINK SHE DID.

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1

2 **COUNCILMEMBER PEREZ:** PUTTING ASIDE THIS ISSUE, ARE THERE
3 OBJECTIONS? WE'LL COME BACK TO THIS ISSUE.

4

5 **COUNCILMEMBER KNAPP:** ONE CHANGE TO MAKE HERE.

6

7 **COUNCILMEMBER LEVENTHAL:** I'M NOT PREPARED TO SIGN OFF UNLESS I
8 SEE THE DEFINITION OF AN OPEN SOLICITATION, WHICH I GUESS
9 STAFF IS GETTING.

10

11 **COUNCILMEMBER PEREZ:** OKAY. I KNOW THIS IS A BIG ISSUE TO PARK,
12 BUT I DO WANT TO SEE HOW MUCH WE HAVE TO DO HERE. MR. KNAPP
13 HAS ONE ISSUE THAT--

14

15 **COUNCILMEMBER KNAPP:** IT'S JUST EASY, SOMEPLACE IN SECTION B,
16 LINE 169, TO ADD IN THE REPORT SOME ELEMENT ASSOCIATED WITH
17 THE OUTREACH ACTIVITIES.

18

19 **COUNCILMEMBER PRAISNER:** RIGHT.

20

21 **COUNCILMEMBER PEREZ:** IN THE REPORT, SO 169 THROUGH 174?

22

23 **COUNCILMEMBER KNAPP:** RIGHT. JUST, AT THE END OF THAT SENTENCE,
24 ADD "AND THE RESULTS OF OUTREACH EFFORTS," AT THE END OF
25 SECTION B.

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1

2 **COUNCILMEMBER PRAISNER:** THE EXTENT OF, NOT THE RESULTS. THIS
3 WOULD BE THE RESULTS. YOU WANT THE EXTENT OF OUTREACH EFFORTS?

4

5 **COUNCILMEMBER PRAISNER:** RIGHT, SOME REPORT OF WHAT THEY HAVE
6 DONE IN OUTREACH.

7

8 **COUNCILMEMBER PEREZ:** OKAY. ANYTHING ELSE?

9

10 **COUNCILMEMBER KNAPP:** NO, THAT WAS IT.

11

12 **COUNCILMEMBER PEREZ:** WITHOUT OBJECTION. DOES ANYBODY ELSE--
13 AGAIN, MR. LEVENTHAL WANTS TO SEE THE DEFINITION. THAT'S A
14 FAIR POINT. MS. FLOREEN, DID YOU HAVE ANY--?

15

16 **COUNCILMEMBER FLOREEN:**[INAUDIBLE]

17

18 **COUNCILMEMBER PEREZ:** OKAY, GREAT. MR. SILVERMAN?

19

20 **COUNCILMEMBER SILVERMAN:** OH, NO. I'M SORRY.

21

22 **COUNCILMEMBER PEREZ:** NO? OKAY. SO WE ARE--

23

24 **COUNCILMEMBER LEVENTHAL:** JUST TO BE CLEAR. AND I WILL COME
25 BACK AND REMOVE THE DOLLAR AMOUNT CAP.

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1

2 **COUNCILMEMBER PRAISNER:** WHY DON'T WE DEAL WITH THAT NOW?

3

4 **COUNCILMEMBER LEVENTHAL:** WE COULD TAKE THAT UP NOW.

5

6 **COUNCILMEMBER PEREZ:** THAT'S FINE BECAUSE WE ARE WAITING TO GET
7 THE--

8

9 **COUNCILMEMBER LEVENTHAL:** THE M.F.P. COMMITTEE-- IF WE COULD
10 GET, MAYBE FROM MIKE FADEN, I GUESS, REMIND-- THE BILL WAS NOT
11 INTRODUCED WITH A LIMIT ON THE SIZE OF THE SOLICITATION.

12

13 **COUNCILMEMBER PRAISNER:** NO, THAT CAME IN A RECOMMENDATION FROM
14 THE EXECUTIVE BRANCH.

15

16 **COUNCILMEMBER LEVENTHAL:** MAYBE STAFF CAN WALK US THROUGH THE
17 REASON WHY THAT WAS PRESENTED TO THE M.F.P. COMMITTEE. WELL,
18 WHERE ARE WE NOW? HELP US WITH THAT.

19

20 **MICHAEL FADEN:** LOOK AT THE BILL YOU JUST GOT. IT SHOWS UP IN A
21 COUPLE OF PLACES. THE MAIN IS LINES 105 AND 106. THERE IS A
22 REFERENCE TO IT ACTUALLY, THAT IS NOT THE MAIN ONE. THE MAIN
23 ONE IS A LITTLE FURTHER AFTER THAT.

24

25 **COUNCILMEMBER LEVENTHAL:** 11-B-68-A3

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1

2 **MICHAEL FADEN:** 11-B-68-A13, WHICH IS ON PAGE 7, LINES 157--

3 I'M SORRY, NOW IT IS 162--

4

5 **COUNCILMEMBER LEVENTHAL:** YEAH, "LIMIT TO TOTAL AMOUNT OF
6 DOLLAR CONTRACT AWARDS THAT ARE ELIGIBLE FOR THE PROGRAM." AND
7 THE REASON FOR THAT WAS? THE M.F.P. COMMITTEE ADOPTED IT. I
8 WASN'T IN FAVOR OF IT. THE SPONSORS AND I DID NOT INCLUDE IT
9 IN THE ORIGINAL BILL, AND THE REASON FOR IT WAS? --

10

11 **MARC HANSEN:** IT RELATES TO THE CHARTER. THE CHARTER PROVIDES
12 THAT-- SECTION 314 OF THE CHARTER SAYS, "THE COUNCIL SHALL
13 PRESCRIBE BY LAW FOR COMPETITIVE PROCUREMENT FOR PURCHASES BY
14 OR CONTRACTS WITH THE COUNTY IN EXCESS OF AMOUNT OR AMOUNTS
15 ESTABLISHED BY LAW." BECAUSE THIS PROGRAM WILL ESTABLISH A
16 SATISFIED OR SHELTERED MARKET, THERE ARE CASES THAT SAY THAT'S
17 NOT COMPETITIVE. I MEAN, YOU HAVE LIMITED THE NUMBER OF PEOPLE
18 WHO CAN PUT IN BIDS. AND SO THEREFORE OUR ADVICE WAS, IN ORDER
19 TO AVOID A CHALLENGE TO THIS PROGRAM UNDER THE CHARTER, THAT
20 THE LAW OR REGULATIONS SHOULD SET A LIMIT OR A CEILING ABOVE
21 OR BELOW WHICH THIS PROGRAM WOULD OPERATE. SO FOR EXAMPLE, IF
22 THE LAW SAYS THAT THIS WOULD ONLY APPLY TO PROCUREMENTS
23 ESTIMATED AT \$100,000 OR LESS, THEN THAT WOULD-- WE COULD SAY
24 THAT SET-ASIDE PROGRAMS WOULD APPLY TO THOSE PROCUREMENTS AND

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1 WE BELIEVE WE WOULD BE SAFE FROM A CHALLENGE UNDER THIS
2 CHARTER SECTION.

3

4 **COUNCILMEMBER LEVENTHAL:** OKAY. MR. PRESIDENT, AT THIS TIME I
5 WOULD LIKE TO MOVE THE LANGUAGE, WHICH WAS IN MY MEMO, THAT I
6 GUESS WOULD JUST SIMPLY DELETE THE REQUIREMENT THAT THERE BE
7 AN UPWARD LIMIT ON THE-- YEAH, DELETES THE LANGUAGE THAT SAYS
8 "LIMITS TOTAL AMOUNT OF INDIVIDUAL DOLLAR CONTRACT AWARDS
9 ELIGIBLE FOR THE PROGRAM." I WOULD JUST MOVE THAT WE SIMPLY
10 DELETE THAT.

11

12 **COUNCILMEMBER PEREZ:** COULD I-- WHERE ARE YOU, ON 106?

13

14 **COUNCILMEMBER PRAISNER:** NO, IT CHANGES THE PROGRAM.

15

16 **COUNCILMEMBER LEVENTHAL:** WELL, I MEAN, THE LINE TO BE DELETED--
17 -

18

19 **COUNCILMEMBER PRAISNER:** SHE ASKED IF IT WAS FOR CLARIFICATION,
20 AND IT IS NOT FOR CLARIFICATION.

21

22 **COUNCILMEMBER LEVENTHAL:** NO, NO. MS. FLOREEN HAS A QUESTION
23 FOR CLARIFICATION.

24

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1 **COUNCILMEMBER FLOREEN:** I JUST WANT TO KNOW, WHAT LINE ARE YOU
2 TALKING ABOUT?

3

4 **SONYA HEALY:** IT WOULD BE IN TWO PLACES ON THE BILL. IT WOULD
5 BE ON LINES 105--

6

7 **COUNCILMEMBER PEREZ:** CIRCLE 106 IS THE EXPLANATION OF WHAT'S
8 GOING ON.

9

10 **SONYA HEALY:** PAGE FIVE OF THE BILL WE PASSED OUT THIS
11 AFTERNOON, LINE 105. **COUNCILMEMBER FLOREEN:** CAN WE TAKE THAT
12 OUT?

13

14 **MICHAEL FADEN:** TAKE THAT OUT.

15

16 **SONYA HEALY:** TAKE NUMBER 8 OUT, AND THEN--

17

18 **COUNCILMEMBER LEVENTHAL:** AND JUST VERY SIMPLY, TO EXPLAIN, I
19 KNOW THAT A LOT OF BRIGHT AND WELL-MEANING PEOPLE ARE
20 WRESTLING WITH ISSUES RAISED BY THIS BILL, BUT SEEMS TO ME
21 WITH THAT WITH THE-- FIRST OF ALL, WHAT IS THE TOTAL? THIS IS
22 FOR THE PRESS'S BENEFIT WHAT IS THE DOLLAR VOLUME OF CONTRACTS
23 LET BY MONTGOMERY COUNTY IN A GIVEN YEAR, LAST YEAR? .

24

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1 **MICHAEL FADEN:** IT WAS OVER \$500 MILLION, ALL CONTRACTS. THAT
2 INCLUDES RENEWALS--

3

4 **COUNCILMEMBER LEVENTHAL:** MORE THAN \$500 MILLION, OF WHICH A
5 VERY LARGE PERCENTAGE WAS MORE THAN \$25,000 OR MORE THAN
6 \$100,000, WHATEVER DOLLAR AMOUNT YOU WANT TO PICK. SO, WITH
7 RESPECT AND APPRECIATION FOR THE HARD WORK OF MY COLLEAGUES IN
8 EXECUTIVE BRANCH, THE EXECUTIVE BRANCH NEVER LIKED THIS FROM
9 THE GET-GO. THE EXECUTIVE BRANCH HAS PROPOSED A NUMBER OF
10 MODIFICATIONS WHICH WOULD WEAKEN AND DILUTE THE BILL, AND THIS
11 IS YET ANOTHER ONE OF THOSE. THIS WOULD MEAN THE LARGEST
12 PROCUREMENTS WOULD NOT BE SUBJECT TO REQUIREMENT OF THIS BILL.
13 AND I CAN ASSURE YOU THAT THE BUSINESS COMMUNITY THAT HAS
14 EXPRESSED SUPPORT FOR THIS BILL WOULD NOT BE HAPPY TO LEARN
15 THAT THE REALLY BIG, THE REALLY GOOD PROCUREMENTS ARE NOT
16 SUBJECT TO THIS BILL. THIS IS YET ANOTHER PROPOSAL THAT WOULD
17 DRAMATICALLY REDUCE THE POOL, THE BASE AGAINST WHICH THE 10%
18 REQUIREMENT IS ASSESSED. IF YOU ARE ONLY GOING TO APPLY IT TO
19 WHAT THE COUNTY ATTORNEY'S RECOMMENDATION WAS, CONTRACTS OF
20 \$25,000 OR LESS, THAT IS A SUBSTANTIAL, NO ONE CAN TELL US HOW
21 SUBSTANTIAL, REDUCTION IN THE BASE IN WHICH THE 10%
22 REQUIREMENT WILL APPLY AND THEREFORE CLEAR AND SUBSTANTIAL
23 REDUCTION IN NUMBER OF CONTRACTS THAT ARE GOING TO BE LET TO
24 LOCAL SMALL BUSINESSES.

25

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1 **COUNCILMEMBER PEREZ:** WHAT IS 11-B-68-A3? I'M TRYING TO
2 UNDERSTAND THE AMENDMENT.

3
4 **COUNCILMEMBER SILVERMAN:** IT MEANS YOU GO TO REGS.

5
6 **COUNCILMEMBER FLOREEN:** IT MEANS A-5.

7
8 **MICHAEL FADEN:** YES, IT SHOULD BE A-5.

9
10 **COUNCILMEMBER PEREZ:** OH. WHY DIDN'T YOU TELL ME THAT, MR.
11 FADEN? MY GOD, THAT CLEARS IT ALL UP!

12
13 **MICHAEL FADEN:** GO TO THE BOTTOM OF THIS BILL, AND YOU WILL SEE
14 IT ON PARAGRAPH 5.

15
16 **COUNCILMEMBER PEREZ:** WHAT DOES THAT MEAN? WHAT IS THE DOLLAR
17 AMOUNT?

18
19 **COUNCILMEMBER SILVERMAN:** IT'S REGS.

20
21 **MICHAEL FADEN:** IT WOULD BE SET BY REGS.

22
23 **COUNCILMEMBER PRAISNER:** IT WOULD BE SET BY REGS.

24

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1 **COUNCILMEMBER LEVENTHAL:** RIGHT, BUT THE REGS WILL BE WRITTEN
2 BY THE COUNTY ATTORNEY, WHO ALREADY SUGGESTED \$25,000.

3

4 **MARC HANSEN:** WE WERE SUGGESTING A LIMIT, NOT NECESSARILY A
5 PARTICULAR DOLLAR AMOUNT. AND, IF COUNCIL IS INCLINED, YOU CAN
6 SET THE LIMIT LEGISLATIVELY. YOU DON'T HAVE TO DELEGATE IT TO
7 EXECUTIVE BRANCH. ALL WE ARE SAYING IS THAT, UNDER THE CHARTER,
8 WE BELIEVE THAT IT IS VERY IMPORTANT THAT A LIMIT BE SET.

9 [LAUGHTER]

10

11 **COUNCILMEMBER LEVENTHAL:** WELL, BUT OUR STAFF-- IF I COULD JUST
12 REPLY TO THAT POINT, OUR STAFF NOTED IN ITS MEMO THAT THE 10%
13 REQUIREMENT IS COMPETITIVELY BID. IT IS NOT-- WE ARE NOT, IN
14 LEGISLATION, SAYING "THIS BUSINESS, THIS BUSINESS AND THAT
15 BUSINESS." WE ARE SAYING 90% IS AVAILABLE TO ANYONE, AND 10%
16 IS AVAILABLE TO ANY LOCAL SMALL BUSINESS. THAT IS STILL
17 COMPETITION.

18

19 **MARC HANSEN:** ALL I CAN SAY IS THAT, FOR EXAMPLE IN SAN
20 FRANCISCO, WHICH HAD A SIMILAR PROGRAM, IT WAS-- THAT PORTION
21 OF THE PROGRAM THAT DIDN'T HAVE A LIMIT WAS STRUCK DOWN
22 BECAUSE SAN FRANCISCO HAS PROVISION IN ITS CHARTER THAT IS
23 SIMILAR WITH OURS.

24

25 **COUNCILMEMBER PEREZ:** CAN YOU WALK ME THROUGH-- TELL ME--

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1

2 **COUNCILMEMBER FLOREEN:** WHICH PART?

3

4 **COUNCILMEMBER PEREZ:** 314. CAN YOU JUST WALK ME THROUGH THE
5 PROVISION OF CHARTER AGAIN THAT GIVES YOU CONCERN? I APOLOGIZE.
6 I USUALLY-- I WORE MY WRONG SUIT. I HAVE MY CHARTER IN EVERY
7 OTHER SUIT EXCEPT THIS ONE.

8

9 **MARC HANSEN:** IT SAYS, "THE COUNCIL SHALL PRESCRIBE BY LAW FOR
10 COMPETITIVE PROCUREMENT, FOR PURCHASES BY OR CONTRACTS WITH
11 COUNTY IN EXCESS OF AMOUNT OR AMOUNTS ESTABLISHED BY LAW."

12

13 **COUNCILMEMBER LEVENTHAL:** AND I WOULD RESPECTFULLY SUBMIT, IT
14 APPEARS TO ME THAT WE ARE DOING JUST THAT RIGHT NOW, AT THIS
15 MOMENT. THE COUNCIL IS INDEED PRESCRIBING BY LAW THE TERMS BY
16 WHICH COMPETITIVE PROCUREMENTS WILL BE LET. 90% WILL BE
17 AVAILABLE TO ANYONE, AND 10% WILL BE COMPETITIVELY AVAILABLE
18 TO LOCAL SMALL BUSINESSES. WE ARE PRESCRIBING THAT BY LAW, AS
19 WE SPEAK.

20

21 **MARC HANSEN:** I UNDERSTAND. I DON'T THINK IT IS COMPETITIVE
22 WITHIN THE SENSE OF THE CHARTER'S MEANING.

23

24 **COUNCILMEMBER PRAISNER:** BECAUSE IT IS SHELTERED?

25

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1 **MARK HANSEN:** BECAUSE IT IS SHELTERED MARKETING.

2

3 **COUNCILMEMBER PEREZ:** ARE THERE LIGHTS IN RELATION TO THIS
4 ISSUE? YES, MR. SUBIN.

5

6 **COUNCILMEMBER SUBIN:** WELL, AGAIN, IN THESE EFFORTS TO
7 UNDERMINE THE POLICY HERE, YOU'RE TRYING TO KEEP TURNING US TO
8 SOME STRICT LETTER OF THE LAW THAT REALLY DOESN'T BEAR
9 RELATIONSHIP TO REALITY. THE FACT OF THE MATTER IS THAT THE
10 GOVERNMENT IS ALL WE SAID, THE FEDERAL GOVERNMENT. SMALL
11 BUSINESS IS NOT THE MACRO BUSINESS; IT IS THE TYPE OF BUSINESS.
12 AND WHAT IS A SMALL BUSINESS? SO, IF YOU TRY TO SET \$25,000 AS
13 THE UPPER LIMIT FOR WHAT THE CONTRACT WILL BE, YOU ARE
14 EXCLUDING A WHOLE RAFT OF BUSINESSES BECAUSE OF THE INDUSTRY
15 THAT THEY'RE IN. YOU TURN A BLIND EYE TO WHAT IS REALLY
16 CONSIDERED A SMALL BUSINESS. A PETROLEUM MANUFACTURING
17 BUSINESS IS GOING TO ALWAYS BE MORE THAN \$25,000. RIGHT? BUT
18 YOU'RE GOING TO GET, AGAIN, IF YOU HAVE THE-- IF STAPLES WAS
19 FRANCHISED, A CONTRACT OF \$25,000 IS GOING TO BE AN EASY LIMIT
20 FOR THEM TO COME IN UNDER. BUT IF YOU ARE DOING COMPUTERS, YOU
21 ARE TALKING, WHAT, 20, 25 COMPUTERS AND THAT IS IT. SO ANYBODY
22 TRYING TO BID ON COMPUTERS FOR THE DEPARTMENT OF HEALTH AND
23 HUMAN SERVICES IS BLOWN OUT OF THE GAME BY A FALSE LIMIT.

24

25 **MARC HANSEN:** WELL THEN, IMPOSE THE \$10 MILLION LIMIT.

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1

2 **COUNCILMEMBER SUBIN:** IF THAT WILL MAKE YOU HAPPY, THEN I WILL
3 MOVE A FRIENDLY AMENDMENT, MR. LEVENTHAL, TO PUT IN \$10
4 MILLION, WHICH I THINK WILL MEET YOUR OBJECTIVES AND WHAT MR.
5 HANSEN IS SAYING IS THE LEGAL ISSUE HERE, AND THAT WILL
6 NULLIFY THE OBJECTION TO YOUR MOTION.

7

8 **COUNCILMEMBER LEVENTHAL:** I APPRECIATE MY FRIEND AND
9 COLLEAGUE'S POINT. I JUST WANT TO ASK THIS QUESTION BECAUSE,
10 AS I READ THE CHARTER, THE COUNCIL NEEDS TO PRESCRIBE BY LAW
11 COMPETITIVE PROCUREMENT FOR CONTRACTS IN EXCESS OF AN AMOUNT
12 OR AMOUNTS PRESCRIBED BY LAW. WHAT THE COUNTY ATTORNEY AND
13 STAFF ARE PROPOSING IS A DOLLAR LIMIT FOR COMPETITIVE
14 PROCUREMENT BELOW A CERTAIN AMOUNT. AM I-- I'M NOT
15 UNDERSTANDING. WHERE IS THE FLOOR, AND WHERE IS THE CEILING
16 HERE? YOU'RE SAYING THAT-- OKAY, I UNDERSTAND NOW. IN OTHER
17 WORDS, ANYTHING BELOW THE THRESHOLD IS NOT COMPETITIVE BY
18 YOUR--

19

20 **COUNCILMEMBER SUBIN:** IF YOU DO A DOLLAR AS THE FLOOR, IN
21 EXCESS OF A DOLLAR, THEN YOU IN FACT ARE ARE SETTING THE
22 REQUIREMENTS.

23

24 **COUNCILMEMBER LEVENTHAL:** I GUESS THE OTHER POINT I MIGHT MAKE
25 IS WHAT THIS BILL INDEED DOES IS IT DOES SET A THRESHOLD OF

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1 \$5,000. WE HAVE TWO PIECES OF THIS BILL. THE FIRST PIECE SAYS
2 THAT ANYTHING BELOW \$5,000, YOU CAN PROCURE ANY WAY YOU WANT.
3 YOU DON'T HAVE TO POST IT. YOU CAN DO PRACTICALLY JUST
4 ANYTHING. SO WE HAVE INDEED, IN THIS LAW, SET THAT THRESHOLD.
5 NOW, I SUPPOSE, EVEN THOUGH IT IS \$5,000 WRAPPED NUMBER THE
6 AGGREGATE STILL, I GUESS I'M UNDERSTANDING THEN COUNTY
7 ATTORNEY'S POINT BETTER. EVEN THOSE \$5,000 PROCUREMENTS WHICH
8 ARE NOT POSTED, AND WHICH CAN BE DONE AT THE CONVENIENCE OF
9 THE PURCHASING DEPARTMENT, ARE STILL COUNTED TOWARDS OVERALL
10 AGGREGATE AGAINST WHICH THE 10%.

11
12 **COUNCILMEMBER PRAISNER:** THAT IS ONLY A POSTING REQUIREMENT.
13 THAT'S NOT THE APPLICATION REQUIREMENT. THAT'S ONLY A POSTING
14 THING.

15
16 **COUNCILMEMBER LEVENTHAL:** SO MAYBE THE \$10 MILLION AMENDMENT
17 PROPOSED BY MR. SUBIN DOES GET AT THAT POINT.

18
19 **COUNCILMEMBER PEREZ:** OKAY. MR. KNAPP AND --

20
21 **COUNCILMEMBER KNAPP:** I WAS JUST GOING TO PROPOSE WHAT MR.
22 SUBIN HAD GOTTEN TO. JUST PICK SOME NUMBER. I MEAN, I THINK
23 THAT'S YOUR POINT IS JUST, IT HAS TO BE A NUMBER.

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1 **COUNCILMEMBER PEREZ:** PICK A NUMBER, ANY NUMBER. LET ME GET THE
2 RANDOM NUMBER GENERATOR. I'VE GOT IT IN THE BACK. I BRING IT
3 FOR JUST THESE REASONS. SO, CAN I TAKE THAT AS A MOTION THEN,
4 MR. SUBIN, OR AN AMENDMENT?

5

6 **COUNCILMEMBER SUBIN:** WELL, IT'S A FRIENDLY AMENDMENT TO MR.
7 LEVENTHAL'S MOTION. IT IS A FRIENDLY AMENDMENT--

8

9 **COUNCILMEMBER PRAISNER:** WITH THAT LANGUAGE

10

11 **COUNCILMEMBER PEREZ:** AS AMENDED. MS. FLOREEN, YOU HAD YOUR
12 LIGHT ON. I DON'T KNOW IF YOU WANTED TO SPEAK TO THIS?

13

14 **COUNCILMEMBER FLOREEN:** WELL, I'VE BEEN WAITING. I JUST DON'T
15 WANT TO LOSE MY THOUGHT ON THE BRIDGE ISSUE.

16

17 **COUNCILMEMBER PEREZ:** OKAY, WELL CAN WE JUST GET-- NO, WE ARE
18 NOT. IF WE COULD GET THROUGH THIS. SO, YOU ARE ACCEPTING THAT
19 AS A FRIENDLY AMENDMENT TO YOUR MOTION?

20

21 **COUNCILMEMBER LEVENTHAL:** YEAH, BUT I WILL LOOK FORWARD TO THE
22 REPORT THAT COMES BACK FROM O.L.O., TO FIND OUT HOW MANY
23 CONTRACTS THERE ARE ABOVE \$10 MILLION.

24

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1 **COUNCILMEMBER FLOREEN:** I WOULD ASK FOR SOMEONE TO STATE WHAT
2 THE WORD WOULD BE, THEN? ANY PROCUREMENT THAT REQUIRES
3 [INAUDIBLE]. ACCORDING TO WHAT?

4

5 **COUNCILMEMBER LEVENTHAL:** FIRST OF ALL, WE WANT "ANY SINGLE
6 PROCUREMENT." IT'S NOT ALL THE PROCUREMENTS BY THAT DEPARTMENT.
7 SO, WHAT LINE ESTABLISHES THIS CAP?

8

9 **MICHAEL FADEN:** WE'LL GO TO 105.

10

11 **COUNCILMEMBER LEVENTHAL:** LINE 105. SO, IT WOULD BE ANY SINGLE
12 PROCUREMENT THAT WOULD CAUSE THE USING DEPARTMENT TO--

13

14 **COUNCILMEMBER FLOREEN:** TO EXCEED WHAT, \$10 MILLION?

15

16 **COUNCILMEMBER LEVENTHAL:** EXCEED A \$10 MILLION LIMIT.

17

18 **MIKE FADEN:** I THINK ANY SINGLE PROCUREMENT THAT IS ESTIMATED
19 TO EXCEED \$10 MILLION.

20

21 **COUNCILMEMBER LEVENTHAL:** THERE YOU GO.

22

23 **COUNCILMEMBER PEREZ:** IS THERE ANOTHER LINE WHERE THIS IS ALSO
24 RELEVANT?

25

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1 **COUNCILMEMBER FLOREEN:** YES. WELL, NO, THEN YOU DON'T NEED 162.

2

3 **COUNCILMEMBER PRAISNER:** NO, BECAUSE IT IS UNNECESSARY.

4

5 **COUNCILMEMBER LEVENTHAL:** SO YOU DELETE 162.

6

7 **COUNCILMEMBER PEREZ:** YOU STRIKE THAT? OKAY. SO, THAT IS WHAT
8 THE AMENDMENT DOES. SAUSAGE MAKING. THE COUNCIL MAKING SAUSAGE.

9

10 **COUNCILMEMBER FLOREEN:** KIELBASA.

11

12 **COUNCILMEMBER PEREZ:** YOU KNOW, OUR NEW VIDEO CONFERENCING
13 CAPACITY. OKAY. MOVED, SECONDED. ALL THOSE IN FAVOR? MR. DENIS,
14 MS. FLOREEN, MR. SUBIN, MR. SILVERMAN, MYSELF, MR. LEVENTHAL.
15 MR. KNAPP ABSTAINED. MS. PRAISNER AND MR. ANDREWS?

16

17 **COUNCILMEMBER ANDREWS:** I THINK IT SHOULD BE DONE BY REGULATION.

18

19 **COUNCILMEMBER PRAISNER:** I DO TOO, BECAUSE NOW-- WELL I GUESS,
20 AT TEN MILLION IT DOESN'T MATTER. I THINK IT WOULD BE BETTER
21 IF IT WERE ADJUSTED AND AFTER WE HAD DATA, BUT REGULATION
22 WOULD BE THE BEST WAY. I UNDERSTAND THE LACK OF TRUST AND
23 CONFIDENCE, BUT I THINK REGULATION IS BEST.

24

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1 **COUNCILMEMBER PEREZ:** OKAY. SO THAT VOTE IS 7-0, AND TWO
2 ABSTAINED. OKAY. NOW, I THINK WE GET BACK TO-- SO WE HAVE
3 ADDRESSED EVERY ISSUE OTHER THAN--

4

5 **COUNCILMEMBER PRAISNER:** I HAVE A NEW ONE. CAN WE ADD-- GIVEN
6 ALL THE LEGAL CHALLENGE ISSUES, CAN WE ADD LANGUAGE? I KNOW
7 SEVERABILITY IS KIND OF INCORPORATED, BUT I WOULD PREFER TO
8 HAVE SOME SEVERABILITY LANGUAGE WITHIN THIS LEGISLATION.

9

10 **MICHAEL FADEN:** WE HAVE GENERALLY RECOMMENDED AGAINST
11 INDIVIDUAL SEVERABILITY CLAUSES, BECAUSE THERE IS A STANDING
12 SEVERABILITY CLAUSE IN THE COUNTY CODE. AND IF YOU WANT TO--

13

14 **COUNCILMEMBER PRAISNER:** BUT, WE HAVE DONE WITH SEVERABILITY. I
15 HAVE SAT HERE AND DONE LEGISLATION WITH SEVERABILITY.

16

17 **MICHAEL FADEN:** ACTUALLY I HAVEN'T SEEN IT PUT IN.

18

19 **COUNCILMEMBER PRAISNER:** I'M PRETTY SURE WE DID.

20

21 **MICHAEL FADEN:** WE HAVE-- THE LEGISLATIVE RECORD HAS REFLECTED,
22 MORE THAN ONCE, AN INTENT.

23

24 **COUNCILMEMBER PRAISNER:** IS THAT IT?

25

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1 **COUNCILMEMBER LEVENTHAL:** THE ONLY TIME WE DID IT THAT I RECALL
2 IS IN THE SMOKING BAN AMENDMENT.

3
4 **COUNCILMEMBER PRAISNER:** WELL, WE DID IT. OKAY, WE DID IT.

5
6 **MICHAEL FADEN:** THAT WAS VERY TAILORED BECAUSE IT WAS ONE ISSUE.
7 WE WOULD RECOMMEND THE RECORD SHOW THAT YOU INTEND THIS TO BE
8 SEVERABILITY.

9
10 **COUNCILMEMBER PRAISNER:** WELL, I DON'T WANT TO HAVE TO COME
11 BACK AND HAVE TO REWRITE THE SMALL BUSINESS LAW IF WE GET
12 CHALLENGED ON ISSUES OF DOLLAR AMOUNTS OR OF THE SET ASIDE.
13 AND I SEE NO REASON WHY ONE COULDN'T KEEP A SMALL BUSINESS
14 PROGRAM IF THE LOCAL PIECE IS CHALLENGED AND FALLS APART.

15
16 **MICHAEL FADEN:** AND IF THAT IS THE GENERAL INTENT OF COUNCIL, I
17 THINK THE RECORD COULD REFLECT THAT. WE HAVE A PROBLEM WITH
18 PUTTING SEVERABILITY CLAUSES IN ONE PLACE, BECAUSE IT CAUSES A
19 NEGATIVE IMPLEMENTATION.

20
21 **COUNCILMEMBER PRAISNER:** THEN WHY DID WE DO IT WITH THE
22 SMOKING?

23
24 **MICHAEL FADEN:** BECAUSE THAT WAS ONE THAT WAS TAILORED
25 SEVERABILITY CLAUSE. IF ONE ISSUE FAILED-- IF THE ISSUE OF

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1 PRIVATE CLUBS WAS FOUND TO BE SEVERABLE, WE WANTED TO SHOW
2 THAT THE REST OF THE LAW, AND ITS APPLICATION TO OTHER PLACES,
3 WOULD REMAIN IN EFFECT. EVEN THERE IT WAS CLOSE CALL, BUT I
4 THINK IT IS SOMEWHAT DIFFERENT FROM HERE, WHERE YOU HAVE A
5 HOST. WE WOULD PRETTY STRONGLY RECOMMEND NOT DOING IT, BUT
6 RATHER HAVE THE LEGISLATIVE RECORD SHOW THAT YOU INTEND IT,
7 ESPECIALLY IF THEY--

8

9 **COUNCILMEMBER PRAISNER:** WELL, I THINK THERE ARE THE TWO ISSUES
10 THAT I HAVE, BUT THERE MAY BE OTHER LEGAL CHALLENGES. THE
11 ISSUE OF SET ASIDE IS THE MAJOR ISSUE. AND, IF CHARTER
12 CHALLENGE AMOUNTS ARE RAISED, I THINK THOSE ARE ISSUES.

13

14 **COUNCILMEMBER PEREZ:** I HAVE TO SAY, I TEND TO AGREE WITH MR.
15 FADEN HERE. IF WE'RE GOING TO DO THIS NOW, THEN WE NEED A
16 CONVERSATION ABOUT ALL THE LAWS THAT DON'T HAVE--

17

18 **COUNCILMEMBER PRAISNER:** I'M ACCEPTING THAT. I JUST WANT THE
19 MINUTES TO REFLECT THOSE TWO ISSUES PARTICULARLY.

20

21 **MARC HANSEN:** I'M READY TO DEAL WITH OPEN SOLICITATION.
22 SOLICITATION.

23

24 **COUNCILMEMBER PEREZ:** MS. FLOREEN HAD THE FLOOR ON THAT.

25

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1 **COUNCILMEMBER PRAISNER:** BRIDGING IS WHAT SHE WANTED TO TALK
2 ABOUT.

3
4 **COUNCILMEMBER PEREZ:** WE'RE GOING TO BACK TO THE BRIDGING. I
5 APPRECIATE THIS COLLOQUY BECAUSE IT DOES CLARIFY THAT, IF IT
6 DOES COME UP. AND NOW, LET'S TURN BACK TO THE BRIDGING ISSUE.

7
8 **COUNCILMEMBER FLOREEN:** THANK YOU. I HAD A QUESTION FOR MS.
9 TIGNOR, WHO APPEARS TO HAVE ABANDONED US.

10
11 **JOE BEACH:** SHE ASKED TO BE EXCUSED. SHE HAD A DOCTOR'S
12 APPOINTMENT THIS AFTERNOON.

13
14 **COUNCILMEMBER FLOREEN:** OKAY. WELL--

15
16 **COUNCILMEMBER PRAISNER:** I THOUGHT SHE HAD GIVEN INFORMATION
17 ABOUT BRIDGING, SO THAT JOE CAN ANSWER SOME QUESTIONS.

18
19 **COUNCILMEMBER FLOREEN:** SHE WROTE A COUPLE OF NOTES ON A PIECE
20 OF PAPER THAT WAS ASSOCIATED WITH SOMETHING ELSE ON MY CHAIR,
21 BUT I REALLY WANTED TO GET THE CLARIFICATION OF IT. THE
22 QUESTION WAS, REALLY, HOW MANY-- WHAT IS THE NATURE OF THE
23 PROBLEM, OR THE ISSUE? HOW MANY OF THESE BRIDGE CONTRACTS ARE
24 THERE? I THINK SHE TOLD ME, BUT I CAN'T SWEAR TO IT, THAT IT
25 WAS SOMETHING LIKE \$20 MILLION.

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1

2 **COUNCILMEMBER PRAISNER:** YEAH THAT'S WHAT SHE SAID IN THE
3 ELEVATOR.

4

5 **COUNCILMEMBER FLOREEN:** IS THAT--

6

7 **JOE BEACH:** YEAH, THE TOTAL VALUE OF BRIDGE CONTRACTS.

8

9 **COUNCILMEMBER FLOREEN:** OUT OF A TOTAL OF WHAT?

10

11 **JOE BEACH:** OVER \$500 MILLION IN TOTAL CONTRACT ACTIONS.

12

13 **COUNCILMEMBER FLOREEN:** IT MAY BE A TEMPEST IN A TEAPOT, LIKE
14 SO MUCH OF WHAT WE DO. SO, I'M NOT SURE THAT THIS IS AN ISSUE.
15 WHAT I'M WONDERING ABOUT IN OUR CONVERSATIONS THAT'S CAUSED ME
16 SOME CONCERN, IS THE EXTENT TO WHICH THIS APPLIES TO EACH
17 DEPARTMENT INDEPENDENTLY.

18

19 **COUNCILMEMBER PRAISNER:** RIGHT.

20

21 **COUNCILMEMBER FLOREEN:** WHAT I DON'T KNOW, AND I DON'T KNOW IF
22 ANYONE HAS DISCUSSED THIS, IS IF THERE ARE SOME DEPARTMENTS
23 WHO HAVE- BECAUSE OF THEIR NATURE, HAVE A BIGGER PROBLEM THAN
24 OTHERS IN MEETING THIS REQUIREMENT. NOW, WE HAVE A PROVISION
25 FOR IMPLEMENTING REGULATIONS.

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1

2 **COUNCILMEMBER PRAISNER:** WE ALSO A PROVISION FOR WAIVERS.

3

4 **COUNCILMEMBER FLOREEN:** YES. IF I COULD FINISH, PLEASE. AND WE
5 HAVE A PROVISION FOR WAIVERS. IS THAT SUFFICIENT TO PROTECT
6 THOSE SITUATIONS WHERE UNIQUE CIRCUMSTANCES MAY INDEED OCCUR?
7 IT SEEMS TO ME WE WANT TO HAVE REGULATIONS THAT AT LEAST SPELL
8 OUT THE PARAMETERS OF THAT EFFORT. I DON'T KNOW WHAT
9 D.P.W.T.'S PROCUREMENT NUMBERS ARE. DO YOU?

10

11 **JOE BEACH:** NOT OFFHAND.

12

13 **COUNCILMEMBER FLOREEN:** AND THE EXTENT TO WHICH IT IS ALL STUFF
14 THAT REALLY CAN'T QUALIFY FOR ONE REASON OR ANOTHER, BECAUSE
15 IT'S ALL, YOU KNOW, DIESEL VEHICLES WE'RE ACQUIRING FROM HERE
16 AND THERE, AND FUEL. I MEAN, THOSE WOULD BE GROUNDS FOR
17 WAIVERS, BUT I WOULD WANT-- IT SEEMS TO ME THAT WE, AS A
18 LEGISLATIVE BODY, WOULD LIKE TO HAVE SOME APPRECIATION OF WHAT
19 THE PARAMETERS OF WHAT THOSE DECISIONS MIGHT BE, WHICH COULD
20 TECHNICALLY BE SPELLED OUT IN REGULATIONS, RATHER THAN TRYING
21 TO WORRY ABOUT ALL THESE WORDS ADDRESSING THOSE POTENTIAL
22 CIRCUMSTANCES. THE DEPARTMENTS ARE GOING TO HAVE TO FIGURE
23 THIS OUT. THERE ARE GOING TO HAVE TO BE DECISIONS MADE AS TO
24 CASES WHERE THIS OBJECTIVE IS SIMPLY NOT ACHIEVABLE, ACCORDING
25 TO ANYONE'S FAIR READING OF THE OPPORTUNITIES OF THE

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1 MARKETPLACE. AND SO I AM-- IT SEEMS TO ME-- I'M LOOKING AT
2 PAGE 5 OF THE NEW BILL. B, AT THE BEGINNING, SAYS THAT THE
3 ISSUE-- ALL OF THIS WILL ADDRESS-- THIS WHOLE PROCESS WILL BE
4 SUBJECT TO METHOD TWO REGULATIONS. NOW, AT THE END WE ALSO SAY,
5 ON PAGE SEVEN, THE REGULATIONS AT 11-B-68, THE REGULATIONS
6 MUST DO THIS, THAT AND THE OTHER THING. IT'S NOT PRECLUDED
7 FROM SPELLING OUT SITUATIONS, OR THE PARAMETERS OF A WAIVER
8 SITUATION. I'M WONDER IF THAT WOULDN'T SIMPLY BE THE SIMPLEST
9 WAY TO EXPECT THIS TO BE RESOLVED. I DON'T THINK THAT-- THE
10 PROVISION FOR WAIVER AT THE TOP OF PAGE SEVEN IS PRETTY
11 GENERAL. I'M WONDERING IF WE'D LIKE TO-- IF WE ADDED SOME
12 REQUIREMENT FOR THE PROVISION OF THE OVERALL PARAMETERS IN
13 WHICH A WAIVER MIGHT BE MADE, WE COULD TAKE OURSELVES OUT OF
14 TRYING TO PREDICT EVERY SINGLE CIRCUMSTANCE WHERE THIS MIGHT
15 BE AN ISSUE NOW, AND ALLOW IT TO BE ADDRESSED MORE GENERALLY,
16 OR MORE SPECIFICALLY, IN REGULATIONS THAT WE'LL HAVE A CHANCE
17 TO LOOK AT. AS I SAY THIS, I'M REMINDED THAT WE HAVEN'T SEEN
18 THE TAXI REGULATIONS.

19
20 **COUNCILMEMBER PRAISNER:** NANCY, ARE YOU SAYING THE METHOD TWO
21 REGULATION REFERRED IN LINES 87 AND 88 WOULD BE A PLACE WHERE-

22 -

23
24 **COUNCILMEMBER FLOREEN:** I'M RAISING THAT QUESTION, YES.

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1 **COUNCILMEMBER PRAISNER:** WHERE YOU WOULD SEE THE ISSUE OF
2 WHETHER A DEPARTMENT-- INCLUDE WITHIN THE REGULATIONS SOME
3 LANGUAGE ABOUT DEPARTMENT'S CAPACITY TO RESPOND, GIVEN THE
4 TYPES OF--

5
6 **COUNCILMEMBER FLOREEN:** YES.

7
8 **COUNCILMEMBER PRAISNER:** OF BIDS--

9
10 **COUNCILMEMBER FLOREEN:** WELL, I'M NOT SURE THAT I WOULD DEFINE
11 IT THAT WAY, BUT THERE MAY BE SITUATIONS THAT CAN BE
12 IDENTIFIABLE, I.E. FUEL CONTRACTS. THAT IS A PRETTY OBVIOUS
13 ONE. I'M NOT IN A POSITION TO DRAFT WHAT THOSE MIGHT SAY AT
14 THIS POINT, BUT I'M WONDERING IF THAT MIGHT BE A BETTER PLACE
15 TO LODGE THE EXPECTATION THAT MORE CLARITY FOR RESOLUTION OF
16 SOME OF THESE DETAILS CAN BE IDENTIFIED. WE'LL TAKE A LOOK AT
17 IT, AND WORK IT OUT IN THAT ENVIRONMENT. I MEAN, I DON'T KNOW
18 ABOUT EVERY AGENCY'S PROCUREMENT NEEDS. I SUSPECT THERE ARE
19 ONLY A COUPLE OF REALLY CLEAR SITUATIONS WHERE YOU'RE GOING TO
20 HAVE A PROBLEM. THE OTHER APPROACH IS TO LOOK AT THESE-- YOU
21 KNOW, ON PAGE 5 UNDER THE-- WHERE WE ARE ELIMINATING. NUMBER
22 FOUR IS, WE'RE ELIMINATING PUBLIC ENTITY PROCUREMENT. AND THEN
23 NUMBER SIX, WE ARE ELIMINATING AWARDS MADE UNDER A COOPERATIVE
24 PROCUREMENT. NUMBER ONE, APART FROM NOT KNOWING WHAT THE
25 DIFFERENCES IS BETWEEN THE TWO, I AM WONDERING IF IT WOULDN'T

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1 BE SIMPLER JUST TO TAKE BOTH OF THOSE OUT AND ADDRESS THAT IN
2 TERMS OF REGULATION.

3

4 **JOE BEACH:** WHAT I WOULD RECOMMEND IS WE COULD-- IT WOULD
5 ADDRESS OUR CONCERNS THAT I EXPRESSED EARLIER IF WE REMOVED
6 PARAGRAPH SIX HERE ON LINE 100, BECAUSE WHAT WE ARE TRYING TO
7 ADDRESS IS SITUATIONS--

8

9 **COUNCILMEMBER FLOREEN:** THE COOPERATIVE PROCUREMENT--

10

11 **JOE BEACH:** SIX WOULD BE, YES, THE COOPERATIVE PROCUREMENT,
12 BECAUSE THAT IS REALLY ADDRESSED--

13

14 **COUNCILMEMBER LEVENTHAL:** WHERE IS THAT WORD, COOPERATIVE
15 PROCUREMENT?

16

17 **COUNCILMEMBER PRAISNER:** WELL, THEY REPLACED OPEN SOLICITATION
18 WITH COOPERATIVE PROCUREMENT

19

20 **COUNCILMEMBER LEVENTHAL:** THOSE ARE TWO TOTALLY DIFFERENT
21 THINGS. WE DIDN'T AGREE TO DO THAT.

22

23 **COUNCILMEMBER PRAISNER:** NO.

24

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1 **COUNCILMEMBER FLOREEN:** WELL, WHATEVER THAT IS, EITHER AN OPEN
2 SOLICITATION OR A COOPERATIVE PROCUREMENT, THAT'S WHAT I HEARD.
3 I HEARD THAT.

4

5 **COUNCILMEMBER LEVENTHAL:** TAKE THAT OUT.

6

7 **COUNCILMEMBER FLOREEN:** I HEARD THAT. TAKE OUT "WHICH."

8

9 **JOE BEACH:** IT'S ADDRESSED--

10

11 **COUNCILMEMBER LEVENTHAL:** WE ONLY PUT IT IN TO MAKE IT EASIER
12 FOR THE DEPARTMENTS.

13

14 **JOE BEACH:** RIGHT. NUMBER SEVEN, AS MARC AND I TALKED, REALLY
15 ADDRESSED THAT WE WERE CONCERNED ABOUT SITUATIONS WHERE A
16 LOCAL SMALL BUSINESS WOULDN'T ABLE TO PROVIDE THE SERVICE, SO
17 THAT'S-- I THINK--

18

19 **COUNCILMEMBER LEVENTHAL:** BUT THAT'S BEEN ADDED. SO, FORGET THE
20 OPEN SOLICITATIONS AND FORGET THE COOPERATIVE AGREEMENT,
21 THEY'RE HISTORY. THE EXECUTIVE BRANCH DOESN'T WANT IT, SO
22 POINT IS MOOT.

23

24 **COUNCILMEMBER FLOREEN:** WE'RE TAKING OUT SIX?

25

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1 **COUNCILMEMBER PEREZ:** WE'RE TAKING OUT SIX. WE'RE DELETING--

2

3 **COUNCILMEMBER LEVENTHAL:** AT THE SUGGESTION OF THE EXECUTIVE
4 BRANCH.

5

6 **COUNCILMEMBER PEREZ:** LINES NUMBER 100 TO 107. WE'RE GOING TO
7 DELETE THOSE. AND SO, SEVEN BECOMES SIX, AND LINE 103-8
8 BECOMES SEVEN, AND LINE 105--

9

10 **COUNCILMEMBER FLOREEN:** HAVE WE ADDRESSED LINE 98, PUBLIC
11 ENTITY PROCUREMENT? THAT IS STILL THERE?

12

13 **COUNCILMEMBER LEVENTHAL:** THAT IS STILL THERE.

14

15 **COUNCILMEMBER PRAISNER:** IT SHOULD BE.

16

17 **JOE BEACH:** I WOULD KEEP IT THERE.

18

19 **COUNCILMEMBER FLOREEN:** IN FACT, THIS IS ALL ABOUT PROCUREMENT
20 SO I'M NOT 100% SURE OF WHY WE HAVE FOUR IN THERE. I MEAN, ON
21 LINE 98.

22

23 **COUNCILMEMBER LEVENTHAL:** THERE MIGHT BE AN EMERGENCY. YOU
24 MIGHT NEED GAS MASKS OR GOD KNOWS WHAT, BANDAGES.

25

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1 **COUNCILMEMBER FLOREEN:** WELL, EMERGENCY IS ONE THING. PUBLIC
2 ENTITY PROCUREMENT IS BASICALLY WHAT THIS IS ABOUT, IS IT NOT?

3

4 **JOE BEACH:** WELL, PUBLIC ENTITY PROCUREMENT IS CONTRACT WE HAVE
5 WITH ANOTHER ANOTHER GOVERNMENT ENTITY. FOR INSTANCE, OUR
6 CONTRACT WITH THE BETHESDA URBAN PARTNERSHIP--

7

8 **COUNCILMEMBER FLOREEN:** THOSE ARE THOSE COOPERATIVE-- WHATEVER
9 IT IS.

10

11 **JOE BEACH:** NO, THAT IS DIFFERENT.

12

13 **COUNCILMEMBER PRAISNER:** IT'S A CONTRACT WITH A PUBLIC ENTITY.

14

15 **JOE BEACH:** THEY PROVIDE THE SERVICE. FOR INSTANCE, BETHESDA
16 URBAN PARTNERSHIP, THEY ARE PROVIDING THE SERVICE UNDER
17 CONTRACT WITH MONTGOMERY COUNTY. COOPERATIVE PROCUREMENT IS
18 WHEN WE JOIN, JOINTLY IN A SOLICITATION FOR SERVICES, WITH
19 ANOTHER GOVERNMENT.

20

21 **COUNCILMEMBER FLOREEN:** ARE WE THEN ELIMINATING THE BRIDGE-TYPE
22 PROCUREMENT FROM THIS?

23

24 **COUNCILMEMBER PRAISNER:** YES.

25

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1 **SPEAKER:** EXECUTIVE BRANCH HAS DROPPED IT. THEY RAISED IT, NOW
2 DROPPED IT, SO WE ARE COOL.

3
4 **COUNCILMEMBER FLOREEN:** WELL, WE HADN'T TAKE IT OUT PREVIOUSLY.

5
6 **COUNCILMEMBER PRAISNER:** I THOUGHT WE JUST AGREED?

7
8 **COUNCILMEMBER LEVENTHAL:** WE ENTERTAINED IT AT THEIR REQUEST,
9 AND NOW THEY'RE DROPPING THEIR REQUEST.

10
11 **COUNCILMEMBER FLOREEN:** OKAY, SO WE ARE TAKING OUT SIX. WE'RE
12 ADJUSTING EIGHT TO ADDRESS THE \$10 MILLION LIMIT BASICALLY,
13 CORRECT?

14
15 **COUNCILMEMBER PEREZ:** CORRECT.

16
17 **COUNCILMEMBER FLOREEN:** I'M WONDERING IF THERE ARE ANY
18 SITUATIONS-- AND MAYBE I'M WRONG. THERE ARE SITUATIONS WHERE
19 CERTAIN DEPARTMENTS, BECAUSE OF THE NATURE OF THEIR FUNCTION,
20 WILL HAVE TREMENDOUS DIFFICULTY IN ADDRESSING THIS. MAYBE THEY
21 WILL, MAYBE THEY WON'T. I'M WONDERING IF IT WOULDN'T BE USEFUL
22 TO JUST BE CLEAR THAT THAT IS WHERE WE WOULD EXPECT ANY OTHER
23 WAIVER APPROACH TO BE OUTLINED. I MEAN, WE DON'T HAVE TO DO
24 ANYTHING MORE. I'M SIMPLY SUGGESTING TO MY COLLEAGUES THAT WE

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1 HAVE A MECHANISM FOR THOSE PROBLEMS THAT PEOPLE ARE TRYING TO
2 IDENTIFY NOW, ALREADY PROPOSED HERE.

3

4 **COUNCILMEMBER PEREZ:** OKAY. ARE YOU MAKING A MOTION?

5

6 **COUNCILMEMBER FLOREEN:** WELL, IF THERE IS NO OBJECTION TO THAT.

7

8 **COUNCILMEMBER LEVENTHAL:** WHAT IS THE MOTION?

9

10 **COUNCILMEMBER FLOREEN:** WELL, IF THERE IS AGREEMENT THAT THAT
11 IS AN APPROPRIATE APPROACH.

12

13 **COUNCILMEMBER LEVENTHAL:** WHAT IS THE "THAT"?

14

15 **COUNCILMEMBER PEREZ:** STATE THE MOTION.

16

17 **COUNCILMEMBER FLOREEN:** THAT THERE BE A MECHANISM-- THE
18 CONTOURS OF ANY WAIVER MECHANISM BE SPELLED OUT IN REGULATION.
19 WE HAVE LANGUAGE ON THE TOP OF PAGE SEVEN THAT SIMPLY SAYS THE
20 C.A.O. CAN WAIVE IT.

21

22 **COUNCILMEMBER LEVENTHAL:** NO. IT DOESN'T SIMPLY SAY THAT. IT
23 SAYS THE DIRECTOR-- ON LINE 18, IT SAYS, THE DIRECTOR MAY
24 WAIVE THIS POSTING REQUIREMENT WHEN A PURCHASE IS NECESSARY-- "

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1 OH, THAT'S THE POSTING REQUIREMENT. I'M SORRY. [OVERLAPPING
2 VOICES]

3
4 **COUNCILMEMBER FLOREEN:** LINE 136.

5
6 **MICHAEL FADEN:** THERE IS A REPORTING PROCESS.

7
8 **COUNCILMEMBER PRAISNER:** YOU RECORD IT AND KEEP A RECORD, AND
9 WE'LL KNOW.

10
11 **COUNCILMEMBER FLOREEN:** THAT MAY, IN AND OF ITSELF, BE
12 SUFFICIENT, BUT THAT IS THE ESCAPE HATCH FOR THESE TWO ISSUES.
13 THE ONLY QUESTION IS WHETHER WE WILL HAVE ANY DIFFICULTY WITH
14 THOSE DECISIONS. I THINK WE'LL KNOW IT WHEN WE SEE IT.

15
16 **COUNCILMEMBER PEREZ:** I WOULD SUGGEST WE GIVE IT A CHANCE TO--
17 LET'S GIVE IT A CHANCE TO WORK. WE'RE GOING TO GET THESE
18 ANNUAL REPORTS. IF WE SEE THIS EXCEPTION HAS BECOME THE RULE,
19 THEN MAYBE WE MIGHT WANT TO CHANGE THE RULE. I CERTAINLY TRUST
20 MR. ROMER'S JUDGMENT ON THIS, AND I'M WILLING TO GIVE HIM THE
21 BENEFIT OF THE DOUBT AT THE OUTSET. WE'RE OBVIOUSLY GOING TO
22 BE CLOSELY MONITORING IT.

23

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1 **COUNCILMEMBER FLOREEN:** OKAY, THEN I THINK THAT TAKES CARE OF
2 THE KINDS OF CONCERNS WE HAVE BEEN VOICING, BECAUSE THERE ARE
3 OTHER ESCAPE HATCHES. WE CAN LOOK AT IT LATER ON.

4

5 **COUNCILMEMBER PRAISNER:** I WANT TO ASK ONE MORE QUESTION. ALL
6 OF THESE ARE C.A.O. DECISIONS. THEY DON'T GO THROUGH THE
7 CONTRACT REVIEW COMMITTEE, RIGHT? RIGHT. I JUST WANTED TO MAKE
8 SURE.

9

10 **JOE BEACH:** IN SOME CASES. JUST TO CLARIFY, THE CONTRACT REVIEW
11 COMMITTEE MAY BE ASKED TO MAKE A RECOMMENDATION

12

13 **COUNCILMEMBER PRAISNER:** BUT DECISION IS C.A.O.'S? RIGHT, JOE?
14 THANKS.

15

16 **COUNCILMEMBER PEREZ:** OKAY, I THINK WE'RE GOOD. AND, I'M GOING
17 TO CALL FOR A VOTE. WE ARE DONE. WE KNOW WHAT WE HAVE BEEN
18 DISCUSSING, AND I'M GLAD WE HAD THIS DISCUSSION. I APPRECIATE
19 THE INVOLVEMENT OF EVERYONE, ESPECIALLY OUR FRIENDS IN THE
20 COUNTY ATTORNEY'S OFFICE AND COUNTY EXECUTIVE'S OFFICE, AND
21 OUR COUNCIL STAFF. THANK YOU FOR THE TIME AND EFFORT YOU HAVE
22 PUT INTO THIS. I APPRECIATE YOUR TIME. MADAM CLERK, PLEASE
23 CALL THE ROLL. CLERK: MR. DENIS?

24

25 **COUNCILMEMBER DENIS:** YES.

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1

2 **CLERK:** MS. FLOREEN?

3

4 **COUNCILMEMBER FLOREEN:** YES.

5

6 **CLERK:** MR. SUBIN?

7

8 **COUNCILMEMBER SUBIN:** YES.

9

10 **CLERK:** MR. SILVERMAN?

11

12 **COUNCILMEMBER SILVERMAN**

13

14 **>> YES.**

15

16 **>>CLERK:** MR. KNAPP?

17

18 **COUNCILMEMBER KNAPP:** YES.

19

20 **CLERK:** MR. ANDREWS?

21

22 **COUNCILMEMBER ANDREWS:** YES.

23

24 **CLERK:** MS. PRAISNER?

25

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1 COUNCILMEMBER PRAISNER: YES.

2

3 CLERK: MR. LEVENTHAL?

4

5 COUNCILMEMBER LEVENTHAL: YES.

6

7 CLERK: MR. PEREZ?

8

9 COUNCILMEMBER PEREZ: YES.

10

11 COUNCILMEMBER PEREZ: BILL PASSES 9-0. OKAY. THANK YOU TO
12 EVERYBODY FOR THEIR ASSISTANCE. WHAT WE'RE GOING TO DO-- WE
13 ARE A BIT BEHIND. WE ARE GOING TO -- [MULTIPLE VOICES]

14

15 COUNCILMEMBER PEREZ: WE'RE GOING TO TAKE UP THE OLNEY MASTER
16 PLAN AGAIN.

17

18 COUNCILMEMBER PRAISNER: WE CAN DO SHADY GROVE! THEY WILL BE
19 HAPPY TO HEAR THAT.

20

21 COUNCILMEMBER PEREZ: YES, WE WILL. WE WILL POSTPONE THE
22 PRESENTATION FROM M.C.P.S. ON INCREASED SCHOOL CONSTRUCTION
23 COSTS. WE'RE GOING TO BE TAKING THAT UP IN EARLY MAY. AND WE
24 WILL COORDINATE WITH M.C.P.S. AND THE CHAIR OF THE EDUCATION

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1 COMMITTEE ON ANOTHER DATE ON THAT. SO, WE WILL TURN TO-- MR.

2 SUBIN DID YOU WANT TO COMMENT ON THAT? B

3

4 **COUNCILMEMBER SUBIN:** YES, MR. PRESIDENT. THANK YOU. WE CAN
5 HANDLE ISSUE OF INCREASED COSTS WHEN WE HANDLE THE SCHOOL
6 SYSTEM'S AMENDMENTS TO THE C.I.P. AND MAKE IT A PART OF THAT
7 PROCESS.

8

9 **COUNCILMEMBER PEREZ:** OKAY, PERFECT. THANK YOU. I APOLOGIZE TO
10 OUR FRIENDS AT M.C.P.S. FOR KEEPING YOU HERE. BUT THERE WAS
11 JUST VERY RIVETING THEATER THAT YOU WERE ABLE TO WATCH, SO
12 THAT WAS THE UPSIDE. OKAY. WELL THEN WE-- OUR NEXT ITEM IS
13 ITEM 12, REQUESTS FOR ORAL ARGUMENT, ABANDONMENT OF-- LET ME
14 JUST SAY ONE MORE THING. WHAT WE ARE GOING TO DO NEXT, GIVEN
15 THE FACT WE HAVE MANY IN THE AUDIENCE HERE, WE WILL MOVE TO
16 ITEM 12, AND THEN WE WILL MOVE THE DISTRICT COUNCIL SESSION.
17 AND THEN WE WILL GO TO THE OPERATING BUDGET, BECAUSE I THINK
18 THE OPERATING BUDGET DISCUSSION IS GOING TO TAKE A LONG TIME.
19 THERE ARE A NUMBER OF PEOPLE HERE IN THE AUDIENCE, AND I'D
20 LIKE TO GET THROUGH THAT. SO, REQUEST FOR ORAL ARGUMENT,
21 ABANDONMENT OF PORTION OF UNIMPROVED MOORLAND LANE. WHO IS
22 HERE FROM OUR STAFF? DR. ORLIN, GOOD AFTERNOON.

23

24 **DR. ORLIN:** GOOD AFTERNOON. YOU HAVE REQUEST FOR AN ORAL
25 ARGUMENT FROM MR. GORDON AND MR. AND MRS. DONALD COPARD. THEIR

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1 REPRESENTATIVE IS STEVE ROBBINS. YOUR DISCUSSION TODAY IS JUST
2 STRICTLY WHETHER OR NOT TO GRANT ORAL ARGUMENT. IF YOU DO, IT
3 WILL BE SCHEDULED AT A LATER TIME. STILL CATCHING MY BREATH.

4

5 **COUNCILMEMBER FLOREEN:** [INAUDIBLE]

6

7 **DR. ORLIN:** YES, JUST BREATHING HARD. TOO MUCH EXERCISE AND TOO
8 LITTLE-- IF YOU DENY ORAL ARGUMENT, THIS WILL GO TO THE T&E
9 COMMITTEE ON THURSDAY FOR DISCUSSION, AND--

10

11 **COUNCILMEMBER FLOREEN:** ON THE RECORD?

12

13 **DR. ORLIN:** ON THE RECORD.

14

15 **COUNCILMEMBER PRAISNER:** IF I MAY?

16

17 **COUNCILMEMBER PEREZ:** YES, MS. PRAISNER?

18

19 **COUNCILMEMBER PRAISNER:** I HAVE NEVER SEEN ONE OF THESE. I
20 DON'T THINK ANYTHING LIKE THIS, WITH THIS KIND OF PROCESS, HAS
21 COME BEFORE THE COUNCIL.

22

23 **DR. ORLIN:** TRUE.

24

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1 **COUNCILMEMBER PRAISNER:** SO I'M TRYING TO UNDERSTAND, BECAUSE
2 THIS IS EVEN MORE ARCHAIC THAN SOME OF THE OTHER THINGS WE DO.
3 WE HAVE A REQUEST FOR AN ORAL ARGUMENT ON THE ABANDONMENT. IF
4 THE COUNCIL DOES NOT GRANT ORAL ARGUMENT, THEN IT GOES TO THE
5 T&E COMMITTEE FOR DISCUSSION. HOW IS A T&E COMMITTEE
6 DISCUSSION DIFFERENT FROM A GRANTING OF ORAL ARGUMENT, SINCE
7 THE T&E COMMITTEE WILL HAVE A CHAT ON THE ISSUE?

8

9 **DR. ORLIN:** ORAL ARGUMENT IS WHEN THE APPLICANT OR OPPONENTS
10 WANT TO ADD SOMETHING TO WHAT'S IN THE RECORD, OR THEY WANT TO
11 COMMENT ON WHAT'S ON THE RECORD. IF YOU DENY ORAL ARGUMENT,
12 WHAT WILL HAPPEN IS THAT THE COMMITTEE WILL TALK ABOUT THINGS
13 THAT ARE ON THE RECORD, AS THEY ALWAYS DO WHEN --

14

15 **COUNCILMEMBER PRAISNER:** BUT THEY CANNOT TALK TO INDIVIDUALS.

16

17 **DR. ORLIN:** THEY CANNOT TALK TO THE INDIVIDUALS.

18

19 **COUNCILMEMBER PRAISNER:** SO THE DIFFERENCE IS A CONVERSATION
20 WILL PRECEDE THE COUNCIL'S INTERNAL CONVERSATION, BOTH ON THE
21 RECORD--

22

23 **DR. ORLIN:** CORRECT.

24

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1 **COUNCILMEMBER PRAISNER:** BUT IT WILL BE EXCLUSIVELY THE T AND E
2 COMMITTEE AND STAFF, MEANING--

3

4 **DR. ORLIN:** YES, D.P.W.T. STAFF.

5

6 **COUNCILMEMBER PRAISNER:** D.P.W.T. STAFF AND YOU, BUT NO ONE
7 ELSE CAN PARTICIPATE?

8

9 **DR. ORLIN:** THAT'S CORRECT.

10

11 **COUNCILMEMBER PRAISNER:** OKAY.

12

13 **COUNCILMEMBER PEREZ:** LET ME TURN TO THE CHAIR OF THE COMMITTEE
14 FOR HER THOUGHTS.

15

16 **COUNCILMEMBER FLOREEN:** I HAVE SOME THOUGHTS. I RESPECT THE
17 INTEREST OF THE PARTIES HERE. I THINK IT IS A LITTLE PREMATURE.
18 THE T&E COMMITTEE WILL TAKE THIS UP. WE MAY OR MAY NOT
19 RECOMMEND SUPPORT OF WHAT THE HEARING EXAMINER SAYS. WE MAY
20 RECOMMEND THAT THE PARTIES CONSIDER AN ALTERNATIVE APPROACH. I
21 CAN'T SAY WHAT THE COMMITTEE WILL DO. BUT I THINK IT WOULD BE
22 AT THAT POINT THAT AN ISSUE OF ORAL ARGUMENT WOULD BE MORE
23 APPROPRIATE, BECAUSE THIS REALLY HASN'T GELLED TO THE POINT
24 WHERE, AS FAR AS I'M CONCERNED, THAT THE RESOLUTION OF THIS
25 SITUATION IS SO CLEAR THAT IT'S APPROPRIATE FOR ORAL ARGUMENT.

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1 I THINK THE COMMITTEE SHOULD LOOK AT IT FIRST. IF THE
2 APPLICANTS WANT TO-- I'D SUGGEST THAT WE PUT THIS TO ONE SIDE,
3 ALLOW THE COMMITTEE TO TAKE A LOOK AT IT, AND THEN IF THE
4 APPLICANTS WANT-- CAN GO AHEAD AND HAVE THEIR ORAL ARGUMENT
5 AFTERWARDS, OR CHOOSE NOT TO HAVE IT.

6

7 **COUNCILMEMBER LEVENTHAL:** CAN WE DO THAT? COULD THE COMMITTEE
8 DISCUSS AND THEN, LATER GRANT ORAL ARGUMENT IF WE THOUGHT IT
9 WAS WARRANTED?

10

11 **COUNCILMEMBER FLOREEN:** SURE, YEAH.

12

13 **COUNCILMEMBER SUBIN:** YEA, AND I'D LIKE TO MAKE A MOTION TO
14 THAT EFFECT BECAUSE I THINK, AS MRS. PRAISNER POINTED OUT,
15 THIS IS ALMOST A NEW PROCESS FOR US. IT COULD BE THAT THE
16 APPLICANT WOULDN'T WANT TO HAVE THE ORAL ARGUMENT, DEPENDING
17 ON WHAT THE COMMITTEE DOES. IF THERE IS A VOTE TODAY FOR ORAL
18 ARGUMENT AND IT GOES DOWN, THEN ORAL ARGUMENT IS PRECLUDED AT
19 ANY TIME RATHER THAN SAYING, "GO TO COMMITTEE. LET THE
20 COMMITTEE COME UP WITH A RECOMMENDATION," AT WHICH POINT IT'S
21 QUITE POSSIBLE THAT THE APPLICANT WOULDN'T WANT ORAL ARGUMENT.

22

23 **COUNCILMEMBER LEVENTHAL:** OKAY, SO WE JUST TABLE THIS ITEM?

24

25 **COUNCILMEMBER PEREZ:** IT'S A MOTION TO TABLE?

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1

2 **COUNCILMEMBER SUBIN:** YES, IT'S A MOTION TO TABLE.

3

4 **COUNCILMEMBER LEVENTHAL:** SECOND.

5

6 **COUNCILMEMBER PEREZ:** OKAY, GREAT.

7

8 **COUNCILMEMBER PRAISNER:** WELL THEN, IT'S IS NOT DEBATABLE AND I
9 WOULD WANT SOME--

10

11 **COUNCILMEMBER PEREZ:** IS THAT-- MR. ROYALTY, IT IS ALWAYS A
12 PLEASURE TO SEE YOU. YOU WERE NOT PRESENT DURING OUR PRIOR
13 CONVERSATION, BUT YOU WERE SORELY MISSED.

14

15 **CLIFF ROYALTY:** MARC HANSEN CALLED TO THE BULLPEN, SO I CAME
16 OVER.

17

18 **COUNCILMEMBER PEREZ:** YES, HE WAS CALLING FOR THE LEFTY. IS OUR
19 UNDERSTANDING CORRECT THAT, IF WE WERE TO POSTPONE ORAL
20 ARGUMENT, WE ARE NOT PRECLUDED FROM DIRECTING ORAL ARGUMENT
21 AFTER OUR T&E COMMITTEE WORK SESSION?

22

23 **CLIFF ROYALTY:** YEAH, I THINK THAT IS RIGHT. I HAVE TO ADMIT, I
24 HAVEN'T DONE ONE OF THESE EITHER. BUT, BASED ON THE WAY THE
25 LAW READS, I THINK YOU ARE ESSENTIALLY TABLING IT. YOU'RE

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1 PUTTING IT OFF, SO HAVEN'T MADE A DECISION ON THE REQUEST FOR
2 ORAL ARGUMENT.

3

4 **COUNCILMEMBER PRAISNER:** THEN I HAVE A QUESTION.

5

6 **COUNCILMEMBER PEREZ:** MR. DENIS ALSO HAS HIS LIGHT ON.

7

8 **COUNCILMEMBER DENIS:** REALLY, JUST AN INQUIRY. I'M ASSUMING
9 THAT, WHEN BEFORE THE COMMITTEE, THAT THE COMMUNITY WOULD HAVE
10 AN OPPORTUNITY-- THE COMMUNITY WOULD NOT HAVE AN OPPORTUNITY
11 TO BE HEARD.

12

13 **COUNCILMEMBER LEVENTHAL:** NOBODY WILL.

14

15 **COUNCILMEMBER DENIS:** SO YOU LIMIT IT STRICTLY TO WHAT IS ON
16 THE RECORD.

17

18 **DR. ORLIN:** UNLESS SOMEBODY REQUESTS ORAL ARGUMENT AFTER THE
19 COMMITTEE COMES IN WITH THE RECOMMENDATION. THAT IS THE POINT
20 AT WHICH ORAL ARGUMENT REQUESTS BY EITHER SIDE WOULD BE
21 GERMANE, NOT NOW.

22

23 **COUNCILMEMBER FLOREEN:** THE COMMITTEE IS ALWAYS IN A POSITION
24 TO RECOMMEND AN ALTERNATIVE WAY FOR THE PARTIES TO CONSIDER TO
25 HANDLE IT. IT IS NOT CLOSED.

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1

2 **COUNCILMEMBER DENIS:** OKAY, SO EITHER SIDE COULD THEN REQUEST
3 ORAL ARGUMENT DEPENDING ON THE OUTCOME OF THE RECOMMENDATION
4 OF THE T&E.

5

6 **COUNCILMEMBER FLOREEN:** RIGHT. ALL THOSE OPPORTUNITIES WILL BE
7 PRESERVED.

8

9 **COUNCILMEMBER PEREZ:** OKAY. FURTHER DEBATE ON THE NON-DEBATABLE
10 MOTION? [LAUGHTER]

11

12 **COUNCILMEMBER PRAISNER:** I'M SORRY. I WANT TO MAKE SURE THAT MR.
13 FADEN AND MR. ROYALTY BOTH AGREE WITH THE PARAMETERS OF WHAT
14 WE ARE TALKING ABOUT. HOW DOES A COUNCIL MEMBER WHO HAS A
15 QUESTION ON THE RECORD, IN THE RECORD, NOT A MEMBER OF THE T&E
16 COMMITTEE, GET THE QUESTION CONSIDERED BY THE T AND E
17 COMMITTEE?

18

19 **MICHAEL FADEN:** THAT COUNCILMEMBER COULD EITHER ATTEND T&E
20 COMMITTEE MEETING OR SUBMIT, WRITE A MEMO TO THE CHAIR OF THE
21 COMMITTEE, RAISING WHATEVER QUESTIONS THERE ARE.

22

23 **COUNCILMEMBER PRAISNER:** THIS IS A PROCEDURE I HAVE NOT GONE
24 THROUGH, AND SO I'M TRYING TO UNDERSTAND. I THINK MR. DENIS'
25 QUESTION ABOUT CAN THE COMMUNITY COMMENT IS ONE WE HAVE TO BE

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1 CLEAR ABOUT. IT IS THE HEARING EXAMINER RECORD AND ONLY THAT,
2 THAT THE T & E COMMITTEE CAN CONSIDER, NOT TO MENTION THE
3 COUNCIL.

4

5 **COUNCILMEMBER PEREZ:** OKAY. MR. DENIS?

6

7 **COUNCILMEMBER DENIS:** I HAVE A FURTHER QUESTION. IS THE LETTER
8 THAT WE HAVE BEFORE US REQUESTING ORAL ARGUMENT, IS THAT A
9 MATTER OF RECORD? IS THAT CONSIDERED A MATTER OF THE RECORD?
10 IN OTHER WORDS WOULD THAT BE BEFORE THE T & E COMMITTEE?

11

12 **DR. ORLIN:** THE REQUEST, LETTER, COVERING LETTER.

13

14 **CLIFF ROYALTY:** HAVEN'T SEEN IT.

15

16 **DR. ORLIN:** THE LETTER FROM MR. ROBBINS.

17

18 **COUNCILMEMBER PRAISNER:** IT IS ON CIRCLE 59.

19

20 **COUNCILMEMBER FLOREEN:** WELL, IT IS NOT PART OF THE RECORD.

21

22 **MICHAEL FADEN:** NOT PART OF THE RECORD AND, TO THE EXTENT THAT
23 ANY FACTS IN THIS LETTER ARE NOT IN THE RECORD-- AND I HAVEN'T
24 READ THAT, SO I CAN'T TELL YOU IF THAT IS TRUE. THOSE FACTS

25 [OVERLAPPING VOICES] --

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1

2 **SPEAKER:** COULD NOT BE CONSIDERED.

3

4 **COUNCILMEMBER DENIS:** WHAT ABOUT THE LETTER?

5

6 **DR. ORLIN:** DON'T READ CIRCLES 59 THROUGH 61.

7

8 **COUNCILMEMBER DENIS:** THE LETTER ITSELF IS OR IS NOT IN THE
9 RECORD?

10

11 **MICHAEL FADEN:** IS NOT.

12

13 **COUNCILMEMBER DENIS:** IT IS NOT IN THE RECORD. OKAY, SO THE
14 LETTER IS NOT IN THE RECORD AND WILL NOT BE BEFORE THE
15 COMMITTEE. OKAY, THANK YOU.

16

17 **COUNCILMEMBER PEREZ:** OKAY. ALL THOSE IN FAVOR? MOTION TO TABLE.

18

19 **COUNCILMEMBER FLOREEN:** MOTION TO REFER--

20

21 **COUNCILMEMBER PEREZ:** MOTION TO POSTPONE?

22

23 **MICHAEL FADEN:** THAT WOULD BE BETTER. THAT IS CONSISTENT WITH
24 WHAT YOU JUST DID.

25

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1 **COUNCILMEMBER PEREZ:** OKAY, THAT WORKS FOR ME. I THINK-- LET'S
2 SEE, MR. DENIS? YES, IT IS UNANIMOUS. OKAY.

3

4 **COUNCILMEMBER PRAISNER:** TAKE IT UP WHEN?

5

6 **DR. ORLIN:** THURSDAY MORNING.

7

8 **COUNCILMEMBER PRAISNER:** GOD, I CAN'T WRITE A MEMO ON--

9

10 **COUNCILMEMBER PEREZ:** NO, IT'S SCHEDULED FOR THE 19TH.

11

12 **COUNCILMEMBER LEVENTHAL:** WE HAVE NO PHED MEETING. YOU CAN DROP
13 BY.

14

15 **COUNCILMEMBER PEREZ:** THE 19TH IS-- OKAY, GOTCHA. OKAY. OUR
16 NEXT ITEM, ITEM 13, RESOLUTION TO CREATE A MARYLAND LAND
17 PRESERVATION FOUNDATION, AGRICULTURAL DISTRICT, SHILOH FARM.
18 MICHAEL RUBIN, DICKERSON, PUBLIC HEARING SET FOR MAY 3RD AT
19 1:30.

20

21 **COUNCILMEMBER PRAISNER:** DO YOU NEED A MOTION?

22

23 **COUNCILMEMBER PEREZ:** NO, WE DON'T. THAT IS WHAT I'M TOLD, HERE
24 ON MY CHEAT SHEET. OF COURSE, I WOULD HAVE KNOWN THAT
25 INDEPENDENT OF THE CHEAT SHEET.

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1

2 **COUNCILMEMBER PRAISNER:** WITHOUT THE CHEAT SHEET, I'M SURE YOU
3 WOULD HAVE. THERE'LL BE A TEST IN DECEMBER.

4

5 **COUNCILMEMBER PEREZ:** I KNOW. NOT FOR ME, FORTUNATELY.

6

7 **COUNCILMEMBER PRAISNER:** YOU CAN'T LEAVE UNLESS YOU PASS THE
8 TEST.

9

10 **COUNCILMEMBER PEREZ:** I MAY BE IN TROUBLE! SUBDIVISION
11 REGULATION-- I NEED TO GET THAT SENATOR FROM TALBOT COUNTY TO
12 HELP ME.

13

14 **COUNCILMEMBER PRAISNER:** HE'S DEAD, LONG DEAD.

15

16 **COUNCILMEMBER PEREZ:** 05-02-- NO, NO, THE CURRENT ONE. THE
17 CURRENT SCANDAL. THE GUY WHO'S GETTING HELP ON HIS HOMEWORK.

18 [LAUGHTER]

19

20 **COUNCILMEMBER SILVERMAN:** THE GHOST WRITER FOR YOUR SPEECHES.

21

22 **COUNCILMEMBER PEREZ:** CORRECT. SUBDIVISION REGULATIONS-- IT IS
23 GETTING LATE, FOLKS. IT'S GETTING LATE. 05-02, LOTS, LOCATION
24 IN COUNTY, SPONSORED BY COUNCIL MEMBER PRAISNER. A RESOLUTION
25 TO ESTABLISH A PUBLIC HEARING. WE DO NEED A VOTE ON THIS.

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1

2 **COUNCILMEMBER LEVENTHAL:** SECOND.

3

4 **COUNCILMEMBER PEREZ:** MOVED AND SECONDED. ALL THOSE IN FAVOR?
5 UNANIMOUS AMONG THOSE PRESENT. ITEM C, ZONING TEXT AMENDMENT
6 05-07, PARKING FACILITIES, COUNTRY INN ZONE, C4, SPONSORED BY
7 COUNCILMEMBERS FLOREEN, LEVENTHAL AND KNAPP. PUBLIC HEARING
8 RESOLUTION, WE WILL DEAL WITH THAT IN A MOMENT BUT THERE WAS A
9 QUESTION FROM MS. PRAISNER.

10

11 **COUNCILMEMBER PRAISNER:** ARE WE SURE THAT WE HAVE CORRECTED
12 EVERYTHING NOW? I'M GETTING TIRED OF THIS.

13

14 **COUNCILMEMBER FLOREEN:** I DOUBT IT.

15

16 **COUNCILMEMBER KNAPP:** PRETTY SURE, AS WE CAN BE.

17

18 **COUNCILMEMBER FLOREEN:** WE'RE RUNNING OUT OF PARAGRAPHS TO FIX.

19

20 **COUNCILMEMBER PRAISNER:** WE'RE GOING HAVE A COUNTRY INN-BOOK
21 CHAPTER WITHIN THE CODE--

22

23 **COUNCILMEMBER FLOREEN:** ONE OF THESE DAYS, WE'LL GET IT RIGHT.

24

25 **COUNCILMEMBER PEREZ:** WE NEED A MOTION?

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1

2 **COUNCILMEMBER FLOREEN:** SECOND.

3

4 **COUNCILMEMBER PEREZ:** MOVED AND SECONDED, ALL THOSE IN FAVOR?
5 UNANIMOUS AMONG THOSE PRESENT. ITEM 16, ZONING TEXT AMENDMENT
6 05-01, NONRESIDENTIAL PROFESSIONAL OFFICE, R-90 ZONE. THIS IS
7 ACTUALLY ACTION, SO I'M GOING TO TURN TO THE PHED COMMITTEE
8 FOR DISCUSSION, AND THEN WE NEED A ROLL CALL VOTE ON THIS.

9

10 **MARTY GROSSMAN:** THANK YOU, MR. PRESIDENT. ZTA05-01,
11 NONRESIDENTIAL PROFESSIONAL OFFICE BY SPECIAL EXCEPTION, R-90
12 ZONE, WAS SUPPORTED BY THE PHED COMMITTEE WITH THE REVISION TO
13 CLARIFY THAT, IN CONSIDERING A NON-PROFESSIONAL OFFICE SPECIAL
14 EXCEPTION, THE BOARD MAY ALLOW FOR OTHER THAN A BUILDING
15 DESIGNATED HISTORIC, THE EXTERIOR OF THE PREMISES TO BE
16 CHANGED, PROVIDED THE RESIDENTIAL APPEARANCE IS RETAINED AND
17 THERE HAS TO BE A HISTORIC WORK PERMIT BEFORE WORK MAY BE DONE
18 TO ALTER THE EXTERIOR FEATURES OF AN HISTORIC STRUCTURE. WE
19 REVIEWED LIST PROVIDED BY THE PLANNING BOARD OF ALL PROPERTY
20 ZONED R-90 AND DESIGNATED HISTORIC. THERE ARE FOUR PROPERTIES
21 THAT HAVE BEEN PREVIOUSLY USED FOR NONRESIDENTIAL PURPOSES,
22 HOWEVER THERE'S NO INFORMATION AS TO WHETHER ANY OF THESE
23 PROPERTIES ARE LOCATED ON A ROAD WITH 120-FOOT RIGHT-OF-WAY.
24 THERE WAS SUPPORT FROM MOHEGAN HILLS CITIZENS ASSOCIATION AND
25 MONTGOMERY PRESERVATION INC., PRIMARILY FOCUSED ON PRESERVING

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1 THE SYCAMORE STORE. GLEN ECHO HEIGHTS CITIZENS ASSOCIATION
2 OPPOSED IT, BECAUSE THEY WERE CONCERNED ABOUT THE POTENTIAL
3 INTENSITY OF THE USE. WE GOT ASSURANCES IN COMMITTEE ABOUT
4 WHAT THE INTENT WAS, WHICH IS FOR USE AS AN ARCHITECTURAL FIRM,
5 NOT AS A CONSTRUCTION COMPANY. WE ADOPTED WHAT'S ON PAGE TWO.
6 WE ADOPTED THIS INSERT HERE.

7

8 **COUNCILMEMBER FLOREEN:** YEAH, THIS UNDERLINED LANGUAGE. I THINK
9 THE COMMITTEE AGREED TO THAT.

10

11 **MARTY GROSSMAN:** ON BOTTOM OF PAGE TWO. AND THAT IS THE
12 RECOMMENDATION OF COMMITTEE, UNANIMOUS.

13

14 **COUNCILMEMBER PEREZ:** OKAY, MR. DENIS?

15

16 **COUNCILMEMBER DENIS:** THANK YOU, MR. PRESIDENT. I WANT TO THANK
17 MR. SILVERMAN AND THE PLANNING COMMITTEE MEMBERS FOR THEIR
18 DILIGENT REVIEW AND FAVORABLE CONSIDERATION OF THE BILL. IT IS
19 MY UNDERSTANDING THAT THE BILL WAS NOT OPPOSED BY THE GLEN
20 ECHO CITIZENS ASSOCIATION, SIMPLY BY SOMEONE WHO SPOKE, WHO
21 WAS A MEMBER OF THE GLEN ECHO CITIZENS ASSOCIATION. THE
22 ASSOCIATION ACTUALLY TOOK NO POSITION. I INTRODUCED THE ZONING
23 TEXT AMENDMENT TO ALLOW LOW IMPACT COMMERCIAL USE OF HISTORIC
24 PROPERTIES IN THE R-90 ZONE THAT WERE FORMERLY USED FOR NON-
25 RESIDENTIAL PURPOSES. I HAVE BEEN PARTICULARLY CONCERNED ABOUT

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1 HISTORIC STRUCTURES FALLING INTO DISREPAIR THROUGH NEGLECT.
2 THE ZONING TEXT AMENDMENT ALLOWS PROFESSIONAL OFFICES AS A
3 SPECIAL EXCEPTION, SIMILAR TO LANGUAGE THAT ALREADY EXISTS IN
4 THE R-60 ZONE. THE SYCAMORE STORE IN GLEN ECHO IS AN EXAMPLE
5 OF A PROPERTY WHERE THIS WOULD APPLY. THE SYCAMORE STORE IS
6 ABOUT 85 YEARS OLD, AND WAS USED AS A COMMUNITY STORE FOR MANY
7 YEARS. IN THIS CASE AND IN OTHER SIMILAR SCENARIOS, LOW IMPACT
8 OFFICE USE LIKE AN ARCHITECT'S OFFICE IS AN IDEAL USE THAT
9 KEEPS HISTORIC PROPERTIES FROM FALLING INTO DECAY. I WANT TO
10 PARTICULARLY THANK DEAN BREMAN, WHOM I BELIEVE IS HERE TODAY,
11 AND PETER PAGANSTCKER FOR HOLDING NUMEROUS MEETINGS WITH THE
12 COMMUNITY REGARDING THEIR VISION FOR THE PROPERTY. I THINK
13 THIS IS ALMOST LIKE AN "EXHIBIT A" OF HOW YOU REACH OUT TO A
14 COMMUNITY WHEN YOU WANT TO TRY TO GET SOMETHING DONE. THEIR
15 APPROACH HAS YIELDED CONSIDERABLE GOODWILL AND SUPPORT FROM
16 THE NEIGHBORS. I ALSO WANT TO THANK RALPH WILSON FOR HIS
17 ASSISTANCE IN DRAFTING THE AMENDMENT. THANK YOU, MR. PRESIDENT.
18 THANK YOU, MEMBERS OF THE COMMITTEE.

19
20 **COUNCILMEMBER PEREZ:** OKAY. MADAM CLERK, PLEASE CALL THE ROLL.

21
22 **CLERK:** MR. DENIS?

23
24 **COUNCILMEMBER DENIS:** YES.
25

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1 **CLERK:** MS. FLOREEN?

2

3 **COUNCILMEMBER FLOREEN:** YES.

4

5 **CLERK:** MR. SUBIN?

6

7 **COUNCILMEMBER SUBIN:** YES.

8

9 **CLERK:** MR. SILVERMAN?

10

11 **COUNCILMEMBER SILVERMAN**

12

13 **>> YES.**

14

15 **>>CLERK:** MR. KNAPP?

16

17 **COUNCILMEMBER KNAPP:** YES.

18

19 **CLERK:** MR. ANDREWS?

20

21 **COUNCILMEMBER ANDREWS:** YES.

22

23 **CLERK:** MS. PRAISNER?

24

25 **COUNCILMEMBER PRAISNER:** YES.

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1

2 **CLERK:** MR. LEVENTHAL?

3

4 **COUNCILMEMBER LEVENTHAL:** YES.

5

6 **CLERK:** MR. PEREZ?

7

8 **COUNCILMEMBER PEREZ:** YES.

9

10 **COUNCILMEMBER PEREZ:** OKAY 9-0. THANK YOU, MR. DENIS, FOR
11 BRINGING THAT TO OUR ATTENTION. ITEM 17, CONSIDERATION OF
12 HEARING EXAMINER'S REPORT AND RECOMMENDATION, APPLICATION
13 NUMBER G822. 822. THIS IS THE OXBRIDGE DEVELOPMENT AT ROCK
14 CREEK. OKAY.

15

16 **MARTIN GROSSMAN:** GOOD AFTERNOON, MR. PRESIDENT.

17

18 **COUNCILMEMBER PEREZ:** MR. GROSSMAN, HOW ARE YOU?

19

20 **MARTIN GROSSMAN:** I'M FINE, THANK YOU.

21

22 **COUNCILMEMBER PEREZ:** GOOD TO SEE YOU AGAIN.

23

24 **MARTIN GROSSMAN:** THANK YOU. IT'S A PLEASURE TO BE HERE. IN
25 THIS CASE, THE APPLICANT SEEKS TO REZONE FROM THE CURRENT R-90

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1 AND R-200 ZONES TO RT-8, THAT'S RESIDENTIAL TOWNHOUSES UP TO
2 EIGHT UNITS PER ACRE, TO CONSTRUCT UP TO 30 TOWNHOUSES TO BE
3 LOCATED ON THE WEST SIDE OF BALTIMORE ROAD ABOUT 1,300 FEET
4 NORTH OF THE INTERSECTION WITH TWINBROOK PARKWAY. THIS WAS A
5 DIFFICULT CASE BECAUSE THE MASTER PLAN DID NOT RECOMMEND THE
6 REZONING. THE TECHNICAL STAFF DID NOT RECOMMEND THE REZONING.
7 THE PLANNING BOARD SPLIT 2-2. BUT I FELT, UPON VIEWING ALL THE
8 EVIDENCE, THE WEIGHT OF THE EVIDENCE DID IN FACT SUPPORT THE
9 REZONING REQUEST. THE RT A ZONE PURPOSE CLAUSE REQUIRES A
10 REZONING EITHER BE DESIGNATED IN THE MASTER PLAN, OR BE
11 TRANSITIONAL FROM INDUSTRIAL OR COMMERCIAL USE, OR HIGHLY
12 DENSE APARTMENT USE TO SINGLE-FAMILY USE OR A THIRD
13 ALTERNATIVE, THAT IT BE APPROPRIATE FOR DEVELOPMENT AT
14 DENSITIES ALLOWED IN THE RT ZONE. IT IS ON THIS LAST PRONG OF
15 THE PURPOSE CLAUSE THAT I FELT, IN FACT, THE REZONING WAS
16 APPROPRIATE. THE TECHNICAL STAFF, ON THE OTHER HAND, FELT THAT
17 IT WAS NOT APPROPRIATE BECAUSE OF THE MASTER PLAN
18 RECOMMENDATION. THEY DID NOT FEEL THAT IT WAS DESIGNATED OR
19 TRANSITIONAL, WHICH I THINK WAS MORE OR LESS CONCEDED AT THE
20 HEARING. IT IS NOT EITHER DESIGNATED A TRANSITIONAL. AS TO THE
21 APPROPRIATE FOR REZONING AT THIS LEVEL, THE TECHNICAL STAFF
22 HAD CONCERNS ABOUT IT BEING NEXT TO PARK LAND AND ABOUT THE
23 ENVIRONMENTAL CONCERNS. AT THE HEARING, HOWEVER, THERE WAS
24 AMPLE EVIDENCE PRODUCED THAT, IN FACT-- INCLUDING THE
25 TESTIMONY OF TWO EXPERTS, ONE FOR THE APPLICANT AND ONE FOR

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1 THE SYNAGOGUE THAT'S RIGHT NEXT TO IT, TIKVAT ISRAEL SYNAGOGUE,
2 WHICH OWNS PART OF THE PROPERTY INVOLVED, THAT IN FACT THERE
3 IS NOTHING WRONG OR INAPPROPRIATE ABOUT HAVING TOWNHOUSES NEXT
4 TO PARK LAND, PER SE. AND, IN FACT, SUBMITTED WERE RESOLUTIONS
5 OF THE COUNCIL, AT LEAST THREE CASES IN WHICH THERE WAS
6 TOWNHOUSE APPROVAL NEXT TO PARK LAND, AND VERY SIMILAR
7 CIRCUMSTANCES. AS TO THE ENVIRONMENT, THE APPLICANT PRODUCED
8 QUITE A BIT OF EVIDENCE DEALING WITH EACH OF THE POINTS RAISED
9 BY TECHNICAL STAFF. AND SPECIFICALLY, THEY PRODUCED A
10 COMPARISON OF WHAT IT WOULD BE TO DEVELOP THIS PROPERTY UNDER
11 AN R-90 ZONE VERSUS AS A SINGLE FAMILY DETACHED DEVELOPMENT
12 VERSUS TOWNHOUSE DEVELOPMENT. AND ON THEIR EVIDENCE, IT WOULD
13 HAVE BEEN MORE DISRUPTIVE TO THE ENVIRONMENT BECAUSE OF THE
14 REQUIREMENTS FOR PUBLIC ROAD FRONTAGE IN THE R-90 DEVELOPMENT.
15 TECHNICAL STAFF DID NOT REFUTE THAT, SAYING THEY DIDN'T HAVE
16 ENOUGH INFORMATION TO RESPOND, ALTHOUGH WHEN-- THEIR FINAL
17 RESPONSE TO THE HEARING EXAMINER INDICATED THAT THEY FELT THAT
18 THEY FELT THAT THERE COULD BE TOWNHOUSE DEVELOPMENT ON THIS
19 PROPERTY IN THE CURRENT ZONE. TO ME, THAT UNDERCUT THE
20 POSITION THAT THERE SHOULDN'T BE TOWNHOUSE DEVELOPMENT NEXT TO
21 A PARK. BECAUSE, IF IT WAS PERMITTED TO BE TOWNHOUSE
22 DEVELOPMENT NEXT TO A PARK FROM A PUBLIC INTEREST STANDPOINT,
23 THEN WHICHEVER ZONE IT WAS, THEN IT WOULD BE APPROPRIATE. SO
24 ON BALANCE HERE, GIVEN THAT THE COUNCIL HAD APPROVED THIS TYPE
25 OF TOWNHOUSE DEVELOPMENT UNDER SIMILAR CIRCUMSTANCES, THAT

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1 THERE WAS NO REFUTATION OF THE ENVIRONMENTAL EVIDENCE PRODUCED
2 BY THE APPLICANT, THAT THERE'S CLEAR COMPATIBILITY OF THE
3 PROPOSED TOWNHOUSES WITH SURROUNDING DEVELOPMENT. THE FACT
4 THAT TECHNICAL STAFF SUGGESTED THAT YOU COULD HAVE TOWNHOUSE
5 DEVELOPMENT NEXT TO A PARK. AND IF DENSITY, IS AN ISSUE, THE
6 APPLICANT HAD CHANGED ITS SCHEMATIC DEVELOPMENT PLAN
7 ULTIMATELY TO NOTE THERE WAS A MAXIMUM OF 30 UNITS, INDICATING
8 WILLINGNESS OR RECOGNITION THAT FACT THAT AT SITE PLAN, IF IT
9 WAS NECESSARY TO REDUCE NUMBER OF UNITS, THE DENSITY, OR TO
10 REARRANGE THEM IN SOME FASHION FROM THEIR ILLUSTRATIVE PLAN,
11 THAT COULD TAKE PLACE. AND FINALLY, THE FACT THAT THE PUBLIC
12 INTEREST IN RECEIVING THE PROMISED, BINDING ELEMENT PROMISED
13 DEDICATION OF 1.5 ACRES OF THIS PROPERTY TO PARK LAND PUSHED
14 ME OVER THE LINE. I FEEL THE BALANCE OF THE EVIDENCE HERE
15 RECOMMENDS APPROVAL OF THE REZONING.

16
17 **COUNCILMEMBER PEREZ:** MS. PRAISNER?

18
19 **COUNCILMEMBER PRAISNER:** I HAVE A QUESTION. JUST A COUPLE OF
20 COMMENTS. IT SEEMED TO ME THAT THE REFERENCES TO PREVIOUS
21 TOWNHOUSE DECISIONS BY THE COUNCIL WERE PRETTY OLD COUNCIL
22 DECISIONS. I HAD A COUPLE OF QUESTIONS. ONE, IS-- REFERENCES
23 MADE TO THE BINDING ELEMENTS THAT WERE ADDED-- NOW I HAVE LOST
24 IT. I THINK IT IS CIRCLE 65. THERE ARE TWO BINDING ELEMENTS--
25 EXCUSE ME, TWO NOTATIONS MADE THERE-- NO, NOT 65. I JUST LOST

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1 IT. IN ANY CASE, I WILL FIND IT SOON. BUT THE TWO NOTATIONS,
2 THEY WERE LISTED AS NOTICES. ONE RELATES TO TRAFFIC CALMING
3 MEASURES AND THE OTHER ONE RELATES TO-- HERE IT IS, CIRCLE 30.
4 RELATES TO THE APPLICANT IMPLEMENTING MITIGATION MEASURES
5 RECOMMENDED IN THE ARBORIST'S REPORT TO SAVE SPECIFIED TREES
6 ON THE SITE, MAINLY THOSE LARGE TREES THAT ARE IDENTIFIED. ARE
7 THOSE TWO NOTATIONS PART OF BINDING ELEMENTS?

8

9 **MARTIN GROSSMAN:** THEY ARE NOT PART OF THE BINDING ELEMENTS
10 BECAUSE THEY ARE CONSIDERED TO BE SOMETHING THAT SHOULD BE
11 TAKEN UP AT SITE PLAN. PEOPLE'S COUNSEL USUALLY OBJECTS TO US
12 INCLUDING TOO MUCH MINUTIA IN THE BINDING ELEMENTS, FEELING
13 THAT THE PURPOSE FOR THE SCHEMATIC DEVELOPMENT PLAN AND THE
14 OPTIONAL METHOD IS TO HAVE MORE FLEXIBILITY, SO AT SITE PLAN
15 THESE THINGS CAN BE PROPERLY ARRANGED. BUT THEY ARE PROMISES,
16 IN EFFECT, NOTED ON THE SCHEMATIC DEVELOPMENT.

17

18 **COUNCILMEMBER PRAISNER:** SO THEY WILL BOTH BE NOTED?

19

20 **MARTIN GROSSMAN:** THEY ARE NOTED ON THE PLAN. THEY WILL
21 CERTAINLY BE--

22

23 **COUNCILMEMBER PRAISNER:** ON THE PLAN?

24

25 **MARTIN GROSSMAN:** YES, THEY WILL CERTAINLY BE ON THE PLAN.

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1

2 **COUNCILMEMBER PRAISNER:** OKAY. I THOUGHT, IN READING REPORT,
3 THAT IT SUGGESTED THAT THE TRAFFIC CALMING MEASURES HAD BECOME
4 A BINDING ELEMENT. I'M HAPPY TO HEAR YOU CLARIFY THAT FOR ME,
5 SINCE SOMEWHERE I GOT THE IMPRESSION THAT IT WAS. THAT'S THE
6 REASON WHY I WAS FOCUSING BECAUSE, FOR ME, THE ENVIRONMENTAL
7 ISSUES ARE THE MAJOR ISSUES.

8

9 **MARTIN GROSSMAN:** I THINK PART OF THE REASON WHY THEY ARE NOT
10 BINDING ELEMENTS IS THE BINDING ELEMENTS INCLUDED IN THE
11 COVENANTS. THEY RUN WITH THE LAND. WHEN YOU TALK ABOUT
12 SOMETHING TEMPORARY LIKE INSTITUTING A TRAFFIC CALMING MEASURE
13 OR AN ARBORIST TAKING SOME ACTION WITH REGARD TO ROOT OF TREES,
14 IT'S PROBABLY BETTER IF IT IS NOT IN COVENANTS THAT ARE FILED
15 IN THE COURT RECORDS, AND RATHER--

16

17 **COUNCILMEMBER PRAISNER:** I UNDERSTAND THAT POINT. I WAS JUST
18 CONCERNED THAT WE DO EVERYTHING THAT IS NECESSARY TO TRY AND
19 PROTECT THESE MAJOR TREES--

20

21 **MARTIN GROSSMAN:** I AGREE.

22

23 **COUNCILMEMBER PRAISNER:** SINCE SUCH A COMMENT IS MADE BY THE
24 ARBORIST. I GUESS THE OTHER POINT IS IT DOESN'T HAVE TO MEET

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1 ALL OF THE REQUIREMENT OF THE NEW ZONING, JUST AT LEAST ONE OF
2 THOSE.

3
4 **MARTIN GROSSMAN:** IN TERMS OF THE PURPOSE CLAUSE, THEY ARE
5 STATING ALTERNATIVES SO IT'S DESIGNATED, OR APPROPRIATE, OR
6 TRANSITIONAL.

7
8 **COUNCILMEMBER PRAISNER:** WHEN WE WENT THROUGH THIS MASTER PLAN,
9 AND I THINK WE DO HAVE A TENDENCY WHEN WE DO MASTER PLANS NOT
10 TO REVIEW EVERY SINGLE PARCEL. ESPECIALLY BECAUSE THIS PARCEL
11 IS SO CLOSE, IS ADJACENT TO THE PARK, THE LANGUAGE OR THE
12 ASSUMPTIONS OF IT BECOMING PARK LAND OR INSTITUTIONAL USE. THE
13 SYNAGOGUE EXISTED BEFORE THE MASTER PLAN, I THINK. DOESN'T IT,
14 FROM THE HISTORY PERSPECTIVE?

15
16 **MARTIN GROSSMAN:** I DON'T RECALL.

17
18 **COUNCILMEMBER PRAISNER:** OH, OKAY. THAT ISN'T IN THE RECORD. IT
19 JUST SEEMED TO ME THAT INSTITUTIONAL USE WENT BEYOND WHAT
20 EXISTED THERE, SINCE THE SCHOOL OBVIOUSLY, ROCKVILLE HIGH
21 SCHOOL, WAS THERE AHEAD OF TIME. AND IT DOES APPEAR, FROM THE
22 RECORDS, COMMENTS ABOUT EFFORTS TO PURSUE THE PROPERTY, THAT
23 THE PARK AND PLANNING AT SOME POINT IN THE PROCESS INTENDED
24 TO-- OR AT LEAST ON A COUPLE OF OCCASIONS PURSUED ACQUISITION
25 OF THE PROPERTY FOR ADDITIONAL PARK LAND.

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1

2 **MARTIN GROSSMAN:** THAT IS CORRECT. THEY NEVER WERE ABLE TO
3 REACH AGREEMENT WITH THE OWNER.

4

5 **COUNCILMEMBER PRAISNER:** OUTSIDE OF THIS ISSUE, IT DOES RAISE A
6 QUESTION THAT SINCE ALL OF THIS INITIAL ACTIVITY PREDATED
7 LEGACY OPEN SPACE AS A PARK AND PLANNING INITIATIVE, ONE
8 WONDERS WHY-- AND I DIDN'T GO LOOK, BECAUSE IT IS NOT PART OF
9 THE RECORD, BUT IT DOES RAISE CURIOSITY FOR ME AS TO HOW PARK
10 AND PLANNING CONSIDERED THIS PARCEL FROM A LEGACY OPEN SPACE
11 PERSPECTIVE, AND WHY IT WASN'T PURSUED IN THAT INITIATIVE. BUT
12 ONCE WE DEAL WITH THIS ISSUE, THEN THAT CAN CERTAINLY BE
13 PURSUED AS A QUESTION. I THINK THOSE ARE ALL MY QUESTIONS,
14 THANK YOU.

15

16 **COUNCILMEMBER PEREZ:** OKAY. THERE ARE NO OTHER QUESTIONS. THANK
17 YOU FOR THE REPORT. IT WAS VERY THOROUGH.

18

19 **MARTIN GROSSMAN:** THANK YOU, SIR.

20

21 **COUNCILMEMBER PEREZ:** I HAVE TO SAY I LOOKED AT CIRCLE 107. THE
22 CITY OF ROCKVILLE IS OPPOSED TO REZONING BECAUSE IT DOES NOT
23 SUPPORT TOWNHOUSES AS ACCEPTABLE TRANSITIONAL LAND USE AS
24 ADJACENT FROM A PARK.

25

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1 **MARTIN GROSSMAN:** THAT'S CORRECT. THEY MODIFIED THEIR--

2

3 **COUNCILMEMBER PEREZ:** I HAVE PHILOSOPHICAL ISSUES WITH THAT
4 CONCEPT.

5

6 **MARTIN GROSSMAN:** THEY MODIFIED THEIR ZONING ORDINANCE TO
7 PROHIBIT IT AS A TRANSITIONAL ENTRY. THEY ALSO HAD SOME OF THE
8 SAME OBJECTIONS THAT WERE LISTED ELSEWHERE AS WELL, IN THEIR
9 LETTER. THEY DID NOT APPEAR AT THE HEARING, THEY JUST SENT THE
10 LETTER.

11

12 **COUNCILMEMBER SUBIN:** THEY LIKE BROKEN PRINTING PLANTS BETTER.

13

14 **COUNCILMEMBER PEREZ:** MS. FLOREEN?

15

16 **COUNCILMEMBER FLOREEN:** WELL IF THERE AREN'T ANY OTHER
17 QUESTIONS, I AGREE WITH YOU, MR. PRESIDENT, THAT THE ISSUE OF
18 TOWNHOUSES NEXT TO A PARK IS NOT A TROUBLING LAND USE. I MOVE
19 APPROVAL OF THE APPLICATION.

20

21 **COUNCILMEMBER PEREZ:** MADAM CLERK, PLEASE CALL THE ROLE.

22

23 **CLERK:** MR. DENIS?

24

25 **COUNCILMEMBER DENIS:** YES.

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1

2 **CLERK:** MS. FLOREEN?

3

4 **COUNCILMEMBER FLOREEN:** YES.

5

6 **CLERK:** MR. SUBIN?

7

8 **COUNCILMEMBER SUBIN:** YES.

9

10 **CLERK:** MR. SILVERMAN?

11

12 **COUNCILMEMBER SILVERMAN**

13

14 **>> YES.**

15

16 **>>CLERK:** MR. KNAPP?

17

18 **COUNCILMEMBER KNAPP:** YES.

19

20 **CLERK:** MR. ANDREWS?

21

22 **COUNCILMEMBER ANDREWS:** YES.

23

24 **CLERK:** MS. PRAISNER?

25

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1 COUNCILMEMBER PRAISNER: YES.

2

3 CLERK: MR. LEVENTHAL?

4

5 COUNCILMEMBER LEVENTHAL: YES.

6

7 CLERK: MR. PEREZ?

8

9 COUNCILMEMBER PEREZ: YES.

10

11 COUNCILMEMBER PEREZ: I BELIEVE THAT IS UNANIMOUS. NOT ONLY
12 THAT, EVERYBODY VOTED FOR IT. NUMBER 18--

13

14 COUNCILMEMBER FLOREEN: WE'RE JUST AN AGREEABLE BUNCH.

15

16 COUNCILMEMBER PEREZ: REQUEST FOR ORAL ARGUMENT. THIS IS
17 APPLICATION G819, AND WE HAVE TWO OPTIONS HERE. PEOPLE WILL
18 RECALL THAT WE PREVIOUSLY HAD ORAL ARGUMENT ON THIS MATTER AND
19 HAD A LENGTHY DISCUSSION. THE MATTER WAS REMANDED, AND HAS
20 SINCE COME BACK TO US. THE THRESHOLD QUESTION PRESENTED IS, DO
21 WE WANT MORE ORAL ARGUMENTS? THE REQUEST HAS BEEN MADE FOR
22 MORE ORAL ARGUMENT. SO, WE HAVE TWO OPTIONS HERE. WE CAN SAY
23 YES TO THAT AND SCHEDULE ORAL ARGUMENT, OR WE CAN SIMPLY
24 CONSIDER THE HEARING EXAMINER'S REPORT AND RECOMMENDATION. I

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1 AM HEARING NO REQUESTS FOR FURTHER ORAL ARGUMENT. OKAY. LET'S
2 MOVE FORWARD.

3

4 **FRANÇOISE CARRIER:** MR. PRESIDENT, BEFORE WE DO. THERE'S ONE
5 ERROR.

6

7 **COUNCILMEMBER PRAISNER:** I WANT TO COMMENT, SINCE DOCUMENT
8 REQUESTING ORAL ARGUMENT MADE REFERENCE TO THE FACT THAT, WITH
9 ORAL ARGUMENT, COUNCILMEMBER PRAISNER CAN PARTICIPATE. I WANT
10 TO INFORM EVERYONE I AM FULLY PREPARED TO FULLY PARTICIPATE,
11 THAT I HAVE BEEN GIVEN LEGAL ADVICE AND ADVICE FROM OUR STAFF
12 AND OUR COUNCIL ATTORNEY, THAT HAVING ACTUALLY MADE THE MOTION
13 FOR ORIGINAL ORAL ARGUMENT, HAVING READ ALL DOCUMENTS, HAVING
14 WATCHED THE TAPE OF THE ORAL ARGUMENT, THAT I AM LEGALLY NOT
15 PRECLUDED FROM PARTICIPATING AND I INTEND TO DO SO. I'D LIKE
16 TO KNOW, THOUGH, IF ANYONE CHALLENGES MY CAPACITY TO
17 PARTICIPATE, EITHER FROM THE APPLICANT'S PERSPECTIVE, FROM THE
18 COMMUNITY, OR ANY OF MY COLLEAGUES, OR ANYONE ELSE IN THE
19 AUDIENCE BEFORE I PROCEED.

20

21 **COUNCILMEMBER LEVENTHAL:** CAN WE OBJECT TO YOUR PARTICIPATING
22 ON GENERAL PRINCIPLES?

23

24 **COUNCILMEMBER PRAISNER:** NO. [LAUGHTER]

25

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1 **COUNCILMEMBER PEREZ:** THEY'D LIKE TO WAIT UNTIL YOU VOTE, AND
2 THEN RESERVE THE OPPORTUNITY TO OBJECT AFTERWARD.

3

4 **COUNCILMEMBER LEVENTHAL:** WE RESERVE THE RIGHT TO MAKE THOSE
5 OBJECTIONS.

6

7 **COUNCILMEMBER PRAISNER:** I JUST WANT TO MAKE SURE THAT THE
8 RECORD IS CLEAR THAT, NOT HAVING BEEN PHYSICALLY PRESENT
9 DURING THE ORAL ARGUMENT BUT SINCE WATCHING THE ORAL ARGUMENT-
10 - AND I MUST SAY THE SARCASM DRIPPED HEAVILY THAT DAY, DIDN'T
11 IT?

12

13 **COUNCILMEMBER PEREZ:** WHY BE ANY DIFFERENT?

14

15 **COUNCILMEMBER PRAISNER:** WHY BE ANY DIFFERENT. BLESS YOU. THAT
16 I AM GOING TO PARTICIPATE. I JUST WANTED TO MAKE SURE THAT,
17 BEFORE WE START THE PROCESS, NO ONE HAS ANY OBJECTIONS TO THAT,
18 OR THAT IF THERE IS ANY LEGAL CHALLENGE TO MY PARTICIPATING
19 THAT IT IS ON THE RECORD TO BEGIN WITH.

20

21 **COUNCILMEMBER PEREZ:** OKAY. OBSERVING NO OBJECTION, WE WILL
22 MOVE AHEAD.

23

24 **FRANÇOISE CARRIER:** I WANTED TO JUST ALERT THE COUNCIL TO AN
25 ERROR IN THE RESOLUTION, WHICH IS-- IT IS NOT A SUBSTANTIVE

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1 ERROR BUT I'M GLAD IT WAS POINTED OUT TO ME. IT'S ON CIRCLE 11
2 UNDER THE PARAGRAPH NUMBERED ONE, "INTENT AND PURPOSE OF THE
3 ZONE." THE SECOND SENTENCE SAYS, "THE DISTRICT COUNCIL FINDS
4 THAT THE PROPOSED REZONING WILL SATISFY THIS INTENT BECAUSE
5 THE SUBJECT PROPERTY IS LOCATED LESS THAN 750 FEET FROM THE
6 T.S.R. DISTRICT." IN FACT IT'S THE T.S.R. DISTRICT. IT'S
7 LOCATED LESS THAN 750 FEET FROM THE BETHESDA METRO. SO, THAT
8 IS A TYPOGRAPHICAL ERROR. IN THE EVENT THE COUNCIL VOTES TO
9 APPROVE, THAT WOULD BE CHANGED IN THE RESOLUTION.

10

11 **COUNCILMEMBER PEREZ:** IS THERE ANY DIFFERENCE? I HAVE -- I'M
12 LOOKING AT SOMETHING DATED--

13

14 **COUNCILMEMBER KNAPP:** IT MUST BE A PREVIOUS PACKET.

15

16 **COUNCILMEMBER PEREZ:** I'M CURIOUS, IS THERE A DIFFERENCE
17 BETWEEN THE PREVIOUS PACKET AND THE CURRENT PACKET? I OBSERVED
18 A COUPLE OF THINGS.

19

20 **FRANÇOISE CARRIER:** YES. THE RESOLUTION IS NOT VERY MUCH
21 DIFFERENT. IT'S DIFFERENT IN A COUPLE OF PLACES, BECAUSE THERE
22 WERE REFERENCES IN THE ORIGINAL RESOLUTION TO THE FACT THAT
23 THE M.P.D.U.'S WERE NOT NECESSARILY ALL GOING TO BE ON-SITE.
24 AND SO I CHANGED THOSE REFERENCES.

25

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1 **COUNCILMEMBER PEREZ:** YES, YES. OKAY. MR. DENIS?

2

3 **COUNCILMEMBER DENIS:** THANK YOU, MR. PRESIDENT. I, TOO, WILL
4 PARTICIPATE IN THIS MATTER AMONG MY COLLEAGUE. MR. PRESIDENT,
5 I SUPPORTED GRANTING ORAL ARGUMENT BECAUSE I WAS CONCERNED
6 OVER THE SPLIT RECOMMENDATION BETWEEN PLANNING STAFF AND THE
7 PLANNING BOARD. IN MY REVIEW OF THE RECORD OF THIS CASE, I
8 FOUND MY CONCERNS WERE WELL-FOUNDED. IT SEEMS THE APPLICANT
9 HAS BASED MUCH OF HIS ENTIRE CASE FOR REZONING AND GREATER
10 HEIGHT ON THE EXISTENCE OF EDMORE CONDOMINIUMS NEARBY. THE
11 RECORD SET BY THEN HEARING EXAMINER PHIL TIERNEY STATES THAT
12 THE EDMORE WAS A UNIQUE CASE THAT EXPRESSLY WOULD NOT CREATE
13 A PRECEDENT. THE EDMORE WAS UNIQUE BECAUSE DENSITY WAS
14 TRANSFERRED BY OTHER NEARBY PROPERTIES. THERE IS NO SUCH
15 TRANSFER IN THIS CASE. THE BETHESDA SECTOR PLAN IS CLEAR IN
16 ITS RECOMMENDATIONS FOR THIS PROPERTY. I BELIEVE THAT THE
17 APPLICANT CAN ACHIEVE A COMPARABLE NUMBER OF UNITS, INCLUDING
18 M.P.D.U.'S, BY FOLLOWING THE URBAN VILLAGE CONCEPT IN THE
19 BETHESDA SECTOR PLAN. THERE IS NO CLEAR PUBLIC BENEFIT THAT
20 GIVES US GROUNDS TO ABROGATE THE RECOMMENDATIONS IN THE SECTOR
21 PLAN BY REZONING THIS PROPERTY. THEREFORE, MY VOTE WOULD BE TO
22 DENY THIS APPLICATION.

23

24 **COUNCILMEMBER PRAISNER:** MOTION?

25

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1 **COUNCILMEMBER DENIS:** IF I COULD MAKE A MOTION, MR. PRESIDENT.

2

3 **COUNCILMEMBER PEREZ:** OKAY. MS. FLOREEN?

4

5 **COUNCILMEMBER FLOREEN:** WELL, I JUST WANTED TO SAY I AM GOING
6 TO JOIN MR. DENIS AND MRS. PRAISNER ON THIS ONE. I STRUGGLED A
7 LOT ON THIS ONE. BUT, YOU KNOW, WE HAVE BEEN SPENDING A LOT OF
8 TIME ON THE SHADY GROVE PLAN RECENTLY, WHICH JUST REMINDS ME
9 OF THE IMPORTANCE OF SOME OF THE DETAILS OF COMMUNITY. THIS IS
10 NOT-- WHAT'S PROPOSED BEFORE US IS NOT A MINOR DEVIATION FROM
11 THE MASTER PLAN RECOMMENDATION. THE DEVIATION IS NOT DESIGNED
12 TO ACHIEVE ANY SIGNIFICANT PUBLIC POLICY, LIKE ACHIEVING MORE
13 AFFORDABLE UNITS. WE ASKED THEM TO ADD THEM, THEY DID. THEY
14 DIDN'T HAVE TO CHANGE THE HEIGHT. THERE WAS NO IMPACT ON THAT.
15 AND SO, WHAT THAT TELLS ME IS THAT THIS IS JUST A LARGER
16 BUILDING FOR THE PURPOSES OF BEING A LARGER BUILDING. WE ARE
17 NOT ACHIEVING A TREMENDOUS NUMBER OF UNITS HERE. IT'S HARDLY A
18 HIGH-DENSITY PROJECT, IT'S JUST A LARGE PROJECT. NOR ARE WE
19 ACHIEVING AFFORDABLE UNITS. I WISH WE WERE THE DESIGN POLICE
20 ON THIS ONE, BECAUSE IT IS ALL GLASS. TO THINK THAT'S GOING TO
21 BE CONSISTENT WITH ITS NEIGHBORS I THINK IS NOT SOMETHING I
22 CAN SUPPORT. SO, I AGREE WITH MY COLLEAGUES ON THIS ONE. IT'S
23 NOT CLOSE ENOUGH TO THE MASTER PLAN RECOMMENDATION. AND IT
24 DOESN'T EXCEED THE MASTER PLAN RECOMMENDATION IN A WAY THAT
25 ACHIEVES OTHER COMPETING POLICY OBJECTIVES. IT'S JUST THERE

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1 BECAUSE IT CAN BE THERE, AND I DON'T THINK THAT IS GOOD ENOUGH
2 TO ACHIEVE COMPATIBILITY UNDER THE CODE.

3

4 **COUNCILMEMBER PEREZ:** MS. PRAISNER?

5

6 **COUNCILMEMBER PRAISNER:** I SECONDED MR. DENIS'S MOTION FOR
7 EXACTLY THOSE REASONS. THE HEARING EXAMINER COMMENTS, WHICH I
8 OBSERVED AND WATCHED, ABOUT IT NOT BEING A LEGAL PRECEDENT BUT
9 HARD TO IGNORE, IS EXACTLY THE REASON WHY FORMER COUNCILMEMBER
10 KRANHKE WAS CONCERNED ABOUT THE EDMORE IN THE FIRST PLACE.
11 BUT WE GOT SOMETHING, THOUGH I DIDN'T SUPPORT THAT
12 RECOMMENDATION. WE GOT SOMETHING IN THAT WE GOT DENSITY GIVEN
13 FROM ACROSS THE STREET WITH THE TOWNHOUSES, EVEN IF THE END
14 PRODUCT WASN'T WHAT THE MAJORITY OF COUNCIL ENVISIONED. WE ARE
15 NOT GETTING ADDITIONAL DENSITY. WHAT WE ARE GETTING IS LARGE
16 LUXURY UNITS, WHICH IS EXACTLY WHAT BETHESDA NEEDS, SO THE
17 END-- SARCASTICALLY [OVERLAPPING VOICES]

18

19 **COUNCILMEMBER PEREZ:** WELL, DON'T WORRY. THERE ARE CAPTIONS
20 UNDERNEATH. RIGHT NOW IT IS SAYING "SARCASTICALLY."

21

22 **COUNCILMEMBER PRAISNER:** WELL, I WANTED MY SHARE SINCE WE HAVE
23 SO MUCH ABOUT HOMEOWNERS, AND RULES AND RIGHTS OF THOSE IN THE
24 UNITED STATES, IN THE PREVIOUS PUBLIC HEARING. IT JUST SEEMS
25 TO ME THAT THE M.P.D.U.'S THAT WE ARE GETTING ARE JUST WHAT WE

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1 WOULD HAVE EXPECTED. WE ARE NOT GETTING ANYTHING EXTRA. THERE
2 IS A MASTER PLAN THAT IS PRETTY CLEAR ABOUT THIS AREA. I SEE
3 NO REASON, NO COMPELLING REASONS OF PUBLIC INTEREST, TO CHANGE
4 THAT FOR THIS PROJECT. SO, I AGREE WITH MS. FLOREEN AND MR.
5 DENIS.

6

7 **COUNCILMEMBER PEREZ:** OKAY. NO OTHER LIGHTS. SO, MADAM CLERK

8

9 **COUNCILMEMBER SILVERMAN:** I WANTED TO CLARIFY. YES MEANS NO TO
10 THE APPLICANT?

11

12 **COUNCILMEMBER PEREZ:** YES MEANS NO TO THE APPLICANT, RIGHT. THE
13 MOTION ON THE TABLE IS TO SUPPORT THE STAFF RECOMMENDATION
14 DENYING THE APPLICATION.

15

16 **COUNCILMEMBER DENIS:** SO A YES VOTE IS TO DENY APPLICATION?

17

18 **COUNCILMEMBER PRAISNER:** RIGHT. A YES IS A NO.

19

20 **COUNCILMEMBER PEREZ:** YES. YES MEANS NO.

21

22 **COUNCILMEMBER LEVENTHAL:** I DO HAVE A QUESTION.

23

24 **COUNCILMEMBER PEREZ:** IT'S LIKE THAT COURT OF APPEALS DECISION,
25 SHALL MEANS MAY.

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1

2 **COUNCILMEMBER LEVENTHAL:** I DO HAVE A QUESTION.

3

4 **COUNCILMEMBER PEREZ:** YES, MR. LEVENTHAL?

5

6 **COUNCILMEMBER LEVENTHAL:** JUST TO UNDERSTAND, IF THIS MOTION
7 PASSES, THEN WHERE DOES THAT LEAVE THE APPLICANT? THE
8 APPLICANT THEN HAS TO RESUBMIT ANOTHER PLAN?

9

10 **FRANCOISE CARRIER:** THEY CAN'T RESUBMIT FOR SOME TIME. I THINK
11 THREE YEARS IF YOU GET A DENIAL ON MERITS, UNLESS THE FACTS
12 CHANGE. THERE'S A PROVISION, I BELIEVE, FOR SOME SUBSTANTIAL
13 CHANGE IN THE CIRCUMSTANCES--

14

15 **RALPH WILSON:** YEAH, OR IF COUNCIL DESIGNATES THAT IT IS
16 WITHOUT PREJUDICE, THEN THEY CAN REFILE. WITHOUT THAT, I
17 BELIEVE IT IS THREE YEAR WAITING PERIOD. IF IT'S DENIED, I
18 BELIEVE THE EXISTING ZONING IS RETAINED ON THE PROPERTY.

19

20 **COUNCILMEMBER LEVENTHAL:** SO THEY COULD DEVELOP UNDER THE
21 EXISTING PLAN?

22

23 **FRANCOISE CARRIER:** OH YEAH, SURE.

24

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1 **COUNCILMEMBER PEREZ:** OKAY, YES MEANS NO. AND MEANS OR. WHY
2 DON'T WE CALL THE ROLL?

3

4 **CLERK:** MR. DENIS?

5

6 **COUNCILMEMBER DENIS:** YES.

7

8 **CLERK:** MS. FLOREEN?

9

10 **COUNCILMEMBER FLOREEN:** YES.

11

12 **CLERK:** MR. SUBIN?

13

14 **COUNCILMEMBER SUBIN:** YES.

15

16 **CLERK:** MR. SILVERMAN?

17

18 **COUNCILMEMBER SILVERMAN**

19

20 **>> YES.**

21

22 **>>CLERK:** MR. KNAPP?

23

24 **COUNCILMEMBER KNAPP:** YES.

25

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1 **CLERK:** MR. ANDREWS?

2

3 **COUNCILMEMBER ANDREWS:** YES.

4

5 **CLERK:** MS. PRAISNER?

6

7 **COUNCILMEMBER PRAISNER:** YES.

8

9 **CLERK:** MR. LEVENTHAL?

10

11 **COUNCILMEMBER LEVENTHAL:** YES.

12

13 **CLERK:** MR. PEREZ?

14

15 **COUNCILMEMBER PEREZ:** YES.

16

17 **COUNCILMEMBER PEREZ:** I GUESS THAT IS 9-0, YES. OKAY, LET'S

18 MOVE TO THE NEXT ISSUE. WE'RE GETTING SLIGHTLY BACK ON

19 SCHEDULE. WHERE IS MR. FARBER? WOW, MR. FARBER, THAT WAS A

20 DRAMATIC APPEARANCE. THANK YOU. WE ARE-- OBVIOUSLY, WE HAVE

21 HAD A NUMBER OF BUDGET HEARINGS. WE ARE NOW ON, FOR THOSE

22 KEEPING SCORE AT HOME, BACK TO AGENDA ITEM TEN, WHICH IS GOING

23 TO BE OUR FIRST OVERVIEW OF THE '06 BUDGET. I WAS GOING TO

24 MAKE SOME PRELIMINARY REMARKS, AND THEN TURN IT OVER TO MR.

25 FARBER TO GO OVER HIS PACKET. I WANTED TO THANK HIM AT THE

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1 OUTSET FOR ALL THE WORK HE HAS PUT IN TO DATE, AND THANK HIM
2 IN ADVANCE FOR ALL THE WORK HE WILL CONTINUE TO PUT IN, AS
3 WELL AS HIS COLLEAGUES ON THE FIFTH FLOOR WHO HAVE BEEN
4 TOILING AWAY IN RELATIVE ANONYMITY. I WANTED TO JUST MAKE A
5 FEW PRELIMINARY OBSERVATIONS. WE HAVE NOW, I BELIEVE,
6 COMPLETED FIVE PUBLIC HEARINGS ON OUR '06 BUDGET. WE'VE HEARD
7 FROM ABOUT 150 MEMBERS OF THE COMMUNITY WHO HAD A VARIETY OF
8 PERSPECTIVES AND OF COURSE, WE'VE HEARD A GREAT DEAL FROM EACH
9 OTHER. I'M ALWAYS HUMBLLED AND HEARTENED WHEN I LISTEN TO SO
10 MANY MEMBERS, INCLUDING BUT NOT LIMITED TO MY GOOD FRIEND,
11 MARVIN, AS WELL AS THE STUDENT FROM MONTGOMERY COLLEGE WHO
12 WENT TO EINSTEIN AND IS QUITE A LEADER IN THE CONSERVATION
13 CORPS, MEMBERS WHO ARE TURNING THEIR LIVES AROUND, AND ALL THE
14 PEOPLE WHO ARE SPEAKING UP, WHETHER IT IS FOR ANOTHER EMPLOYEE
15 AT THE JAIL TO HELP IN THE LIBRARY, OR PEOPLE LIKE KEVIN DWYER
16 LAST NIGHT. IT SEEMS TO ME THAT, IN OUR WEEKS AHEAD, OUR TASK
17 IS TO CRAFT A BUDGET THAT IS BOTH FISCALLY AND MORALLY
18 RESPONSIBLE. I HAVE SAID A NUMBER OF TIMES THAT BUDGETS ARE
19 MORAL DOCUMENTS, AND I'VE ALSO SAID THAT THERE IS A, AND
20 CONTINUES TO BE REGRETTABLY, WHOLESAL ABICATION OF
21 RESPONSIBILITY IN WASHINGTON D.C. AND ANNAPOLIS. THE FEDERAL
22 BUDGET IS NEITHER FISCALLY NOR MORALLY RESPONSIBLE. AND
23 REGRETTABLY, THE BUSH ADMINISTRATION AND THE REPUBLICAN
24 CONGRESS HAVE BEEN OUTSOURCING RESPONSIBILITY FOR PROTECTING
25 VULNERABLE PEOPLE AND BUILDING COMMUNITIES TO LOCAL

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1 GOVERNMENTS. THE ERLICH ADMINISTRATION'S PLAN FOR ADDRESSING
2 THE HEALTH CARE CRISIS IS TO KICK 4,000 LEGAL IMMIGRANTS OFF
3 THE MEDICAID ROLLS. THE BULK OF THOSE NEWLY UNINSURED ARE
4 PREGNANT WOMEN AND CHILDREN. AS WE HAVE SAID TIME AND TIME
5 AGAIN, WE CANNOT POSSIBLY BACKFILL THE ENTIRE TRAIL OF BROKEN
6 PROMISES. FISCAL AND MORAL RESPONSIBILITY NEED NOT BE MUTUALLY
7 EXCLUSIVE VALUES. I'M HOPEFUL AND CONFIDENT THAT WE CAN CRAFT
8 A BUDGET THAT MEETS BOTH GOALS. WHAT I TOOK AWAY FROM THE
9 HEARINGS IS WE HAVE A NUMBER OF COMPETING VALUES, ALL OF WHICH
10 ARE INDEED IMPORTANT. WE ARE A GREAT PLACE TO LIVE. PEOPLE
11 RECOGNIZE THAT YOU GET WHAT YOU PAY FOR, AND SUCCESS DOES NOT
12 COME ON THE CHEAP. A RELATED VALUE IS OUR CONCERN THAT A
13 RISING TIDE LIFT ALL BOATS, AND THERE BE A SAFETY NET FOR MOST
14 VULNERABLE RESIDENTS. STILL ANOTHER VALUE IS FISCAL
15 RESPONSIBILITY. WE HEARD, AND HAD A LENGTHY DEBATE ON, THE SO-
16 CALLED CHARTER LIMIT THAT WAS PASSED IN 1990. IT DOES HAVE A
17 PRESUMPTION THAT WE WILL RESTRAIN THE GROWTH OF PROPERTY TAX
18 REVENUE AND THEREFORE RESTRAIN THE GROWTH IN THE PROPERTY TAX
19 BILL. IT IS NOT AN IMMUTABLE PRESUMPTION BECAUSE THERE IS AN
20 OVERRIDE PROVISION, BUT IT IS AN IMPORTANT PRESUMPTION
21 NONETHELESS THAT WE ALSO SHOULD ALL ACKNOWLEDGE. IT IS
22 IMPORTANT ALSO TO REMEMBER THAT LAST YEAR WAS THE LOW WATER
23 MARK FOR THE FICKER AMENDMENT. IF YOU LOOK AT ALL THE VOTES
24 FROM 1990, LAST YEAR WAS INDEED THE LOW WATER MARK. BUT WE
25 ALSO KNOW THAT RISING TAX ASSESSMENTS HAVE PRODUCED REAL AND

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1 LEGITIMATE CONCERNS. AS SOMEONE WHO HAS THE PRIVILEGE OF
2 ANSWERING THE MAIL, I HAVE RESPONDED TO MANY PEOPLE WITH
3 CONCERNS, MOST NOTABLY SENIORS ON FIXED INCOMES WHO ARE
4 WRITING WITH THEIR VERY EARNEST CONCERNS ABOUT HOW THEY ARE
5 GOING TO MAKE ENDS MEET. AS WE GET UNDERWAY, WE NEED TO REVIEW
6 BOTH THE SCHOOL BOARD'S AND THE EXECUTIVE'S RECOMMENDATIONS
7 CAREFULLY. TAKEN ONE-BY-ONE, I BELIEVE THEY ARE INTERESTING,
8 IMPORTANT AND, IN SOME CASES, VERY COMPELLING. I'M VERY
9 PERSONALLY EXCITED ABOUT MANY OF THE EXECUTIVE'S PROPOSALS. AT
10 THE SAME TIME I RECOGNIZE THAT, TAKEN TOGETHER, THEY PRODUCE A
11 VERY, VERY LARGE INCREASE IN THE BUDGET. THE PROBLEM IS, AS IS
12 ALL TOO OFTEN THE CASE WE HAVE SIZE 12 NEEDS BUT HAVE
13 FINANCIAL ROOM FOR A SIZE 9 BUDGET. ON ONE LEVEL, THE TASK OF
14 CRAFTING A BALANCED BUDGET MAY SEEM EASIER THAN PAST YEARS
15 BECAUSE, AS MR. FARBER POINTS OUT, THE LOCAL ECONOMY HAS
16 IMPROVED. OUR GAP ISN'T AS WIDE AS IT HAS BEEN IN PAST YEARS,
17 BUT ONE GAP THAT SEEMS TO BE AS WIDE AS EVER IS THE
18 EXPECTATIONS GAP. EXPECTATIONS ARE VERY, VERY HIGH THIS YEAR.
19 FRANKLY, I HAVE TO SAY IN A NUMBER OF CASES, EXPECTATIONS ARE
20 UNREALISTICALLY HIGH. WE CAN AND WILL REDUCE A NUMBER OF THE
21 COUNTY EXECUTIVE'S PROPOSALS, JUST AS WE HAVE IN YEARS PAST.
22 THAT IS WHY I ASKED THE COMMITTEES, AS THEY REVIEW THE
23 EXECUTIVE'S PROPOSED PROGRAM EXPANSIONS AND NEW INITIATIVES
24 AND OVERALL BUDGETS, TO DETERMINE WHICH SHOULD OF THEM BE
25 CONSIDERED FOR GRADUAL IMPLEMENTATION, REDUCTION OR OUTRIGHT

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1 ELIMINATION. IT IS ALSO IMPORTANT TO LOOK AT BASE BUDGETS TO
2 DETERMINE WHETHER THERE ARE ITEMS THAT CAN BE REDUCED OR
3 ELIMINATED. THIS IS ALL THE MORE IMPORTANT BECAUSE I KNOW
4 COUNCIL MEMBERS HAVE ALREADY IDENTIFIED POTENTIAL CLAIMS ON
5 RESOURCES THAT DIFFER FROM THE EXECUTIVES' SUCH AS FIRE
6 APPARATUS AND STAFFING, INFORMATION TECHNOLOGY, OUR
7 INFRASTRUCTURE MAINTENANCE NEEDS THAT WERE VERY EXCELLENTLY
8 OUTLINED BY MS. PRAISNER IN HER REPORT, AND HUMAN SERVICE
9 PROGRAMS INCLUDING THE OPEN COMMUNITY GRANT PROCESS THAT WE
10 HAVE INITIATED. WE ALSO NEED TO LOOK AND EXPLORE WHETHER
11 FURTHER PROPERTY TAX RELIEF, INCLUDING A LARGER CUT IN
12 PROPERTY TAX RATES AS WELL AS TARGETED CIRCUIT BREAKER RELIEF,
13 CAN BE ACHIEVED. I'M VERY INTERESTED IN WORKING ON BOTH OF
14 THESE ISSUES, AND I KNOW MY COLLEAGUES ARE AS WELL. THAT IS
15 WHY I HAVE SUGGESTED THAT THE COMMITTEES ATTEMPT TO MAKE
16 TARGETED REDUCTIONS IN THE BUDGETS OF ALL AGENCIES, AND I
17 UNDERScore ALL, REDUCTIONS THAT CAN BE PLACED ON A
18 RECONCILIATION LIST IF THE COMMITTEE SO DETERMINES. THE TOTAL
19 REDUCTION FIGURE OF ABOUT \$34 MILLION WAS SELECTED BECAUSE IT
20 WAS ROUGHLY, AND I EMPHASIZE ROUGHLY, WHAT THE MAJORITY OF THE
21 M.F.P. COMMITTEE PROPOSED IN DECEMBER FOR THE LEVEL OF
22 PROPERTY TAX REVENUE. AND THAT WAS ROUGHLY ABOUT HALFWAY
23 BETWEEN CURRENT RATES AND CHARTER LIMIT. I BELIEVE WE SHOULD
24 TRY TO USE THIS TARGET REDUCTION AS A FLOOR AND NOT A CEILING.
25 I'M CONFIDENT WE CAN FIND A WAY TO PROVIDE ADDITIONAL PROPERTY

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1 TAX RELIEF ABOVE AND BEYOND WHAT THE COUNTY EXECUTIVE HAS
2 PROPOSED. AGAIN, AS I HAVE SAID, IF THERE IS A WAY TO CRAFT A
3 BUDGET THAT IS FISCALLY AND MORALLY RESPONSIBLE AND AT THE
4 SAME TIME ALLOWS US TO RETURN TO THE CHARTER LIMIT, I'M ALL-
5 EARS. WE WILL CONTINUE TO DO THIS. IT'S A WORK IN PROGRESS. WE
6 WILL CONTINUE TO SOLICIT INPUT FROM ALL THE STAKEHOLDERS. WHAT
7 I HOPE THAT WE WILL CONTINUE TO REMEMBER, AND WE HAVE DONE SO
8 LAST YEAR AS WELL AS YEAR BEFORE, IS THAT THERE ARE MANY, MANY
9 LEGITIMATE VIEWPOINTS AND CONCERNS. NO ONE PERSON OR
10 PERSPECTIVE HAS THE MORAL HIGH GROUND AS WE BEGIN OUR DEBATE.
11 I AM EXCEEDINGLY CONFIDENT THAT, AS WE WORK TOGETHER OVER THE
12 NEXT SIX WEEKS TO COMPLETE A FINAL BUDGET, THAT WE WILL
13 SUCCEED IN PRODUCING A BUDGET THAT RESPONDS TO THE NEEDS AND
14 CONCERNS OF THE ENTIRE COMMUNITY AND THAT IS, INDEED, BOTH
15 MORALLY AND FISCALLY RESPONSIBLE IN THE BEST TRADITION OF
16 MONTGOMERY COUNTY. SO, I WANTED TO TURN TO MR. FARBER TO GO
17 THROUGH HIS PACKET AND PREPARE US FOR WHERE WE'RE GOING. I DO
18 SEE THERE IS A LIGHT ON. MS. FLOREEN, IF YOU HAD SOMETHING TO
19 SAY BEFORE MR. FARBER?

20
21 **COUNCILMEMBER FLOREEN:** I JUST HAVE A QUICK QUESTION. WHEN WILL
22 WE KNOW THE NUMBERS FROM ANNAPOLIS?

23
24 **COUNCILMEMBER PEREZ:** WELL, WE KNOW SOME NUMBERS FROM ANNAPOLIS.
25

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1 **COUNCILMEMBER FLOREEN:** WHAT IT WILL MEAN EXACTLY. I KNOW THAT
2 THEY HAVE APPROVED ADDITIONAL SCHOOL FUNDING DOLLARS BUT THE
3 DETAILS OF ALL THAT, WHEN WILL WE HAVE THAT INFORMATION?
4

5 **STEVE FARBER:** WELL, AS MR. PEREZ INDICATED, WE DO HAVE SOME OF
6 THE NUMBERS. THE KEY IS TO INTEGRATE THEM INTO TOTAL IMPACT ON
7 OUR BUDGET. THAT, THE EXECUTIVE DOES EVERY YEAR IN HIS ANNUAL
8 BUDGET AMENDMENTS. AND THOSE ARE EXPECTED, I BELIEVE, AROUND
9 APRIL 21.
10

11 **COUNCILMEMBER FLOREEN:** IS THERE ANY WAY WE COULD GET THEM
12 BEFORE WE TAKE UP THE SPENDING AFFORDABILITY?
13

14 **COUNCILMEMBER PRAISNER:** I'VE ASKED FOR SOME INFORMATION
15 REGARDING THURSDAY'S DISCUSSION. WE SHOULD HAVE BOTTOM-LINE
16 INFORMATION ON HOW MUCH IS EDUCATION FUNDING, HOW MUCH WE'RE
17 GOING TO GET, PROGRAM OPEN SPACE, TRANSPORTATION, HIGHWAY USER
18 MONEY, BECAUSE THOSE ARE BIG ITEMS.
19

20 **COUNCILMEMBER FLOREEN:** SO WE WILL BE WORKING TOWARDS--
21

22 **COUNCILMEMBER PRAISNER:** RIGHT. THE PIECES THAT I DON'T THINK
23 WE'LL REALLY KNOW UNTIL JULY, AUGUST, SEPTEMBER OR SO ARE
24 EMBEDDED WITHIN INDIVIDUAL STATE DEPARTMENTS, WHAT MONEY MIGHT
25 HAVE BEEN GOING OR COULD GO TO MONTGOMERY COUNTY THAT MIGHT OR

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1 MIGHT NOT BUILD ON THE EXPECTATIONS DEPARTMENTS HAVE HAD. BUT
2 I WOULD SUGGEST THAT THOSE ARE NOT THE BIG DOLLARS, AND
3 PROBABLY WE'LL KNOW MOST OF IT--

4

5 **COUNCILMEMBER FLOREEN:** WE'LL PROBABLY HAVE A GOOD BALLPARK
6 NUMBER NEXT WEEK.

7

8 **COUNCILMEMBER PRAISNER:** YES, WE SHOULD.

9

10 **COUNCILMEMBER FLOREEN:** THAT IS ALL I WANTED TO KNOW, THANK YOU.

11

12 **COUNCILMEMBER PEREZ:** THE OTHER QUESTION THAT WE WILL CONTINUE
13 TO KNOW OVER TIME IS, AS WE GET BIDS IN ON SOME OF OUR SCHOOL
14 EXPANSIONS AND MODERNIZATIONS. IT IS A CRITICAL X FACTOR THERE,
15 OF HOW MUCH OVER, BECAUSE OF THE COST OF STEEL AND THE OTHER
16 THINGS WE'VE DISCUSSED. WE WERE SUPPOSED TO HAVE A BRIEFING ON
17 THAT TODAY, BUT TIME DID NOT PERMIT. SO, ANNAPOLIS IS
18 OBVIOUSLY ONE CRITICAL FACTOR AND THEN SOME OF THESE BIDS,
19 WHICH WILL HAVE SEVEN-FIGURE IMPLICATIONS POTENTIALLY, ARE
20 ANOTHER FACTOR. MR. FARBER? AGAIN, GOOD AFTERNOON AND THANK
21 YOU FOR ALL OF YOUR HARD WORK. YOU SHOULD ASSUME WE HAVE ALL
22 READ AND ABSORBED YOUR PACKET. IF YOU WANT TO PROVIDE
23 HIGHLIGHTS WE CAN DO THAT.

24

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1 **STEVE FARBER:** YES. GIVEN THE HOUR AS WELL, I'M GOING TO DO
2 THAT. WITH US TODAY, BY THE WAY, ARE BERYL FEINBERG AND SUNIL
3 PANDYA FROM O.M.B. THEY ARE THE OPERATING BUDGET COORDINATORS.
4 THEY'VE DONE A TERRIFIC JOB, HAVE BEEN ENORMOUSLY RESPONSIVE
5 TO OUR ANALYSTS' REQUESTS FOR INFORMATION. WE APPRECIATE THEIR
6 HELP.

7

8 **COUNCILMEMBER PEREZ:** IF YOU'D LIKE TO COME UP JUST IN CASE A
9 QUESTION COMES UP, FEEL FREE TO JOIN US.

10

11 **STEVE FARBER:** YOU HAVE MY PACKET, AS MR. PEREZ SAID, AND IT IS
12 A SUBSTANTIAL PACKET. I UNDERSTAND, MS. FLOREEN, IT WAS
13 NOMINATED FOR A GOLDEN SHOVEL AWARD.

14

15 **COUNCILMEMBER FLOREEN:** [INAUDIBLE]

16

17 **COUNCILMEMBER PEREZ:** IT WOULD HAVE BEEN THE ONLY ONE THAT
18 DIDN'T WIN.

19

20 **STEVE FARBER:** THAT IS RIGHT. I WASN'T QUITE SURE HOW TO TAKE
21 THAT.

22

23 **COUNCILMEMBER FLOREEN:** [INAUDIBLE] [LAUGHTER]

24

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1 **STEVE FARBER:** AS THE COUNCIL PRESIDENT SAID, THIS BUDGET HAS
2 MANY VERY ATTRACTIVE, MANY VERY COMPELLING FEATURES,
3 PARTICULARLY WHEN TAKEN INDIVIDUALLY--

4

5 **COUNCILMEMBER FLOREEN:** IT'S BETTER TAKEN INDIVIDUALLY.

6

7 **STEVE FARBER:** AND I THINK ONE CENTRAL POINT IN THE COUNCIL'S
8 WORK CLEARLY HAS TO BE WHETHER IN THE AGGREGATE THIS BUDGET IS
9 ONE THAT CAN BE SUSTAINED OVER TIME. A GOOD EXAMPLE OF AN
10 EXCITING INITIATIVE IN THE BUDGET COMES FROM THE POLICE
11 DEPARTMENT. CHIEF MANGER HAS DONE AN EXCELLENT JOB IN PUTTING
12 TOGETHER A FIVE-YEAR STAFFING PLAN, AND THAT HAS GAINED A LOT
13 OF SUPPORT. IN FISCAL YEAR '06, THE BUDGET CALLS FOR 40 NEW
14 POLICE OFFICER POSITIONS. LINDA MCMILLAN HAS DONE AN ANALYSIS
15 OF THOSE, AND WHAT IT SHOWS IS THAT 14 OF THE 40 POSITIONS ARE
16 FULLY FUNDED IN THE GENERAL FUND, 18 ARE HALF-YEAR FUNDED IN
17 THE GENERAL FUND AND WILL HAVE TO BE ANNUALIZED NEXT YEAR,
18 EIGHT ARE FULL-YEAR GRANT FUNDED AND GENERAL FUND WILL HAVE TO
19 PICK UP A GOOD PORTION NEXT YEAR, WE ESTIMATE ABOUT HALF. AND
20 THEN, THERE ARE ALSO SEVEN NON-SWORN POSITIONS--

21

22 **COUNCILMEMBER FLOREEN:** EXCUSE ME, WHAT YEAR?

23

24 **STEVE FARBER:** '07. I'M TALKING ABOUT '07. THEN THERE ARE
25 SEVERAL NON-SWORN POSITIONS THAT ARE EACH IN FOR ONLY TWO-

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1 TENTHS OF A WORK YEAR, OR A TOTAL OF 1.4 WORK YEARS INSTEAD OF
2 THE SEVEN. AND SO WHAT WE HAVE DONE IN ROUGH ADDITION IS TO
3 SEE THAT, OF THESE 47 POSITIONS, THERE ARE REALLY ABOUT 28
4 WORK YEARS IN THE '06 BUDGET. AND IN THE '07 THERE WILL HAVE
5 TO BE ROOM MADE FOR ALL 47 OF THEM. THIS IS WHAT I CALL IN MY
6 PACKET "THE LONG TAIL." AND IT REALLY IS A LONG TAIL AND IT
7 APPLIES, FRANKLY, TO MOST OF THE 275 NEW POSITIONS IN COUNTY
8 GOVERNMENT THAT THIS BUDGET CREATES. THE ISSUE IS NOT THAT
9 THEY ARE NOT ALL ATTRACTIVE AND IN SOME CASES, COMPELLING.
10 THEY ARE. THE QUESTION REALLY HAS TO DO WITH OVER TIME, FOR
11 FISCAL YEAR '07, AND THEN FOR SUBSEQUENT FISCAL YEARS, WHAT WE
12 CAN SUSTAIN. AND SO THAT, I THINK, IS GOING TO BE A CENTRAL
13 ISSUE AS THE COMMITTEES BEGIN WORK ON THIS BUDGET. A SMALLER
14 EXAMPLE IS THE HIGHER EDUCATION ADVISOR, LOCATED IN THE
15 DEPARTMENT OF ECONOMIC DEVELOPMENT. AS I POINT OUT IN THE
16 PACKET, THAT WILL COST \$113,000 IN '06 BUT WHEN FULLY
17 IMPLEMENTED, WOULD BE MORE LIKE \$150,000, OR A THIRD MORE IN
18 FISCAL YEAR '07. A RELATED ISSUE IS COMPENSATION IN THE BUDGET.
19 AS I POINT OUT IN THE ANALYSIS, ONCE AGAIN COMPENSATION IS
20 ABOUT FOUR-FIFTHS OF THE TOTAL BUDGET FOR ALL OF THE AGENCIES,
21 AND IT IS UP 8.2%. THIS IS NOT DISSIMILAR FROM WHAT WE'VE SEEN
22 IN RECENT YEARS. THE ISSUE HERE IS NOT JUST SALARIES,
23 NEGOTIATED AGREEMENTS, BUT IT'S THE VERY HIGH COST OF
24 RETIREMENT AND OF HEALTH BENEFITS. AND THIS TOTAL, 8.2% FOR
25 COMPENSATION AS A WHOLE, IS THE BIGGEST SINGLE DRIVER OF THE

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1 BUDGET AND IT IS SOMETHING WE'VE GOT TO GRAPPLE WITH AS WELL
2 AS WE CAN.

3

4 **COUNCILMEMBER PEREZ:** CAN I STOP YOU THERE, MR. FARBER? I'M
5 LOOKING ON CIRCLE 52, AND THERE WAS SOMETHING THAT KIND OF
6 JUMPED OUT AT ME. I WAS LOOKING AT THE ISSUE OF RETIREE
7 BENEFITS, AND I WANT TO MAKE SURE I UNDERSTAND THIS CORRECTLY.
8 COUNTY GOVERNMENT, FY 05, \$16 MILLION, AND '06, \$21 MILLION.
9 SO IT'S A 30% JUMP IN RETIREE BENEFITS?

10

11 **STEVE FARBER:** YES.

12

13 **COUNCILMEMBER PEREZ:** COULD YOU JUST WALK ME THROUGH THESE
14 TABLES UNDER HERE, BECAUSE THAT WAS AN AGGREGATE 18%,
15 THEREABOUTS, CHANGE? IS THIS CONSISTENT WITH YEARS PAST, AND
16 TO WHAT DO WE ATTRIBUTE THIS?

17

18 **STEVE FARBER:** WELL, THERE HAVE BEEN LARGE INCREASES YEAR-BY-
19 YEAR. PART IS THE AFFLICTION THAT ALL EMPLOYERS HAVE WITH
20 HEALTH BENEFITS. WHAT THAT HAS MEANT IN THE PRIVATE SECTOR, OF
21 COURSE, IS THAT HEALTH BENEFITS IN SOME INSTANCES HAVE BEEN
22 CIRCUMSCRIBED, SOMETIMES SHARPLY. THAT HAS NOT HAPPENED IN THE
23 PUBLIC SECTOR. WE HAVE TAKEN THIS LOAD ON AND CONTINUED TO
24 ABSORB IT. BUT BASICALLY HEALTH COSTS, AFTER A BRIEF RESPITE
25 IN THE MID '90S, HAVE SHOT BACK UP AGAIN. AND THERE IS AN

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1 ENORMOUS BURDEN YEAR BY YEAR. OVERALL, OUR HEALTH COSTS IN
2 COUNTY GOVERNMENT WERE UP 14.4% THIS YEAR, SOMEWHAT LESS FOR
3 ACTIVE EMPLOYEES THAN FOR RETIRED, ALTHOUGH THAT VARIES YEAR-
4 BY-YEAR. AND IT'S A PHENOMENON, SADLY, THAT'S WITH US AND WITH
5 EVERY OTHER EMPLOYER.

6

7 **COUNCILMEMBER PEREZ:** UNDER HIS OBESITY INITIATIVE, EVERYBODY
8 WILL BE MORE ACTIVE, SO HOPEFULLY WE CAN REDUCE THE HEALTH
9 CARE.

10

11 **STEVE FARBER:** RIGHT. THAT OUGHT TO MAKE A DIFFERENCE.

12

13 **COUNCILMEMBER PEREZ:** YOU WERE REFERRING TO A DIFFERENT TYPE OF
14 ACTIVE EMPLOYEE.

15

16 **STEVE FARBER:** YES, ACTIVE AS OPPOSED TO RETIRED.

17

18 **COUNCILMEMBER PEREZ:** OKAY. DO YOU HAVE A BALLPARK? WHAT
19 PERCENTAGE OF THIS 17.8% INCREASE IS HEALTH CARE?

20

21 **STEVE FARBER:** WELL, MOST OF IT IS. THE RETIREE BENEFITS,
22 BASICALLY, ARE CALLED GROUP INSURANCE. THERE IS A VERY SMALL
23 PORTION FOR THAT THAT IS LIFE INSURANCE, BUT MOST OF IT IS
24 HEALTH INSURANCE. THIS IS SOMETHING WE HAVE BEEN LIVING WITH
25 REALLY, YEAR AFTER YEAR. AS I SAY, IN THE PRIVATE SECTOR WHAT

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1 HAS HAPPENED IS THAT BENEFITS HAVE BEEN RESTRUCTURED AND
2 SOMETIMES ELIMINATED ALTOGETHER AS WITH U.S. STEEL, FOR
3 EXAMPLE. BUT IN THE PUBLIC SECTOR, FORTUNATELY, WE HAVE NOT
4 DONE THAT, BUT THAT DOES MEAN A VERY HEAVY FISCAL OBLIGATION.

5

6 **COUNCILMEMBER PEREZ:** OKAY. THERE WERE A FEW LIGHTS ON. WOULD
7 YOU MIND IF WE STOPPED RIGHT NOW, BECAUSE I THINK YOU HAVE A
8 LOT OF FOOD FOR THOUGHT. COUNCILMEMBER FLOREEN: HOW ARE WE
9 GOING TO--

10

11 **COUNCILMEMBER PEREZ:** YEAH, I INTERRUPTED HIM. I PROBABLY
12 SHOULDN'T HAVE DONE THAT. PHIL, YOU HAD YOUR LIGHT ON FIRST.
13 DID YOU WANT TO STOP NOW, OR DO YOU WANT TO HAVE HIM GO
14 THROUGH? EITHER WAY.

15

16 **COUNCILMEMBER ANDREWS:** I HAVE A QUESTION, ACTUALLY ON THE
17 RETIREMENT BENEFITS. THEY VARY QUITE A BIT FROM AGENCY TO
18 AGENCY. SO, YOU INDICATED THAT MOST OF THE TOTAL OF THE
19 AGGREGATE WAS HEALTH CARE INCREASES. IS THAT TRUE ACROSS THE
20 AGENCIES. OR OTHER FACTORS?

21

22 **STEVE FARBER:** IT IS. FOR RETIREE BENEFITS, IT IS, YES.

23

24 **COUNCILMEMBER ANDREWS:** HOW ABOUT FOR THE ACTIVE EMPLOYEES?

25

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1 **STEVE FARBER:** FOR ACTIVE EMPLOYEES, THE NUMBERS FOR BENEFITS
2 INCLUDE BOTH HEALTH AND RETIREMENT. RETIREMENT IS CHARGED TO
3 EACH DEPARTMENT'S BUDGET.

4

5 **COUNCILMEMBER ANDREWS:** OKAY, ALL RIGHT.

6

7 **STEVE FARBER:** BUT THAT'S BEEN UP AS WELL BECAUSE, REALLY FOR
8 TWO REASONS. ONE, OF COURSE, THE SALARY INCREASES HAVE TO BE
9 REFLECTED IN CONTRIBUTIONS FOR RETIREMENT. THE OTHER IS, IN
10 OUR DEFINED BENEFIT PLAN, WHICH IS STILL THE LARGEST PLAN WE
11 HAVE, MARKET CONDITIONS HAVE A LOT TO DO WITH WHAT THE
12 ACTUARIES REQUIRE THE COUNTY TO PUT IN. IN THE RETIREMENT
13 SAVINGS PLAN, WHICH WAS STARTED IN 1994, WHERE ALL NON-PUBLIC
14 SAFETY EMPLOYEES HIRED SINCE THEN, BOTH REPRESENTED AND
15 UNREPRESENTED, THE COUNTY'S CONTRIBUTION IS 6% OF SALARY. ALL
16 ELECTED OFFICIALS ELECTED SINCE 1989 ARE IN THAT SAME PLAN. IT
17 IS 6% OF SALARY THAT THE COUNTY CONTRIBUTES. BUT, IN THE
18 DEFINED BENEFIT PLAN, WHAT'S CONTRIBUTED IS A FUNCTION OF WHAT
19 THE MARKET RETURNS HAVE BEEN AND WHAT THE PENSION BENEFIT
20 INCREASES ARE. THE PENSION BENEFIT INCREASES SINCE 1999 HAVE
21 BEEN VERY CONSIDERABLE AND, AS A RESULT, THERE HAS BEEN
22 PRESSURE ON WHAT THE RETIREMENT COSTS ARE. FOR EXAMPLE IN
23 PUBLIC SAFETY, FOR THOSE RELATIVELY SMALL NUMBER OF PEOPLE
24 HIRED BEFORE 1978 WHEN THE PLAN CHANGED, THE CONTRIBUTION RATE
25 IS NOT 6% OF SALARY. IT'S 77% OF SALARY. FOR PUBLIC EMPLOYEES

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1 HIRED SINCE 1978, IT IS ABOUT 29% OR 30% OF SALARY. SO, YOU
2 CAN SEE THIS KIND OF PRESSURE. WHEN BENEFITS ARE IMPROVED AND
3 WHEN THE MARKET ISN'T AS STRONG AS IT WAS, SAY, FIVE OR SIX
4 YEARS AGO, THERE IS ENORMOUS PRESSURE, AND ALL THE LIABILITY
5 FALLS ON THE COUNTY. SEVERAL YEARS AGO, THE COUNTY'S
6 CONTRIBUTION TO RETIREMENT WAS \$40 MILLION. IN '06, IT IS
7 CLOSER TO \$90 MILLION. IN FISCAL YEAR 2000, THE RETIREMENT
8 CONTRIBUTION FOR THE FIRE SERVICE WAS \$9 MILLION. IN FISCAL
9 YEAR '07, IT WILL BE \$27 MILLION. THESE ARE THE FACTORS THAT
10 DRIVE COMPENSATION COSTS, ALONG WITH HEALTH CARE. IT IS FOR
11 THAT REASON THAT, YEAR AFTER YEAR, WE HAVE SEEN THESE LARGE
12 INCREASES IN COMPENSATION COSTS. BECAUSE THEY REPRESENT FOUR-
13 FIFTHS OF THE TOTAL BUDGET, THAT IS WHAT DRIVES THE BUDGET.

14

15 **COUNCILMEMBER ANDREWS:** STEVE, YOUR PACKET IS OUTSTANDING AS
16 ALWAYS. I DID READ IT CAREFULLY. I'M SURE ALL MY COLLEAGUES
17 READ IT CAREFULLY. I THINK THERE IS ONLY ONE CONCLUSION THAT
18 ONE CAN COME TO AFTER READING THE ANALYSIS OF THE BUDGET, AND
19 THAT IS THE BUDGET IS UNSUSTAINABLE. THAT BUDGETS OF THIS
20 MAGNITUDE, FOR ANY LENGTH OF TIME, ARE UNSUSTAINABLE, WILL
21 EITHER RESULT IN CRUSHING TAX BURDENS ON HOMEOWNERS OR DEEP
22 CUTS IN PROGRAMS. THIS IS A BUDGET THAT IS INCREASING 9.6%, I
23 THINK, IN THE AGGREGATE, AND THE TAX-SUPPORTED PART IS 8.2%?

24

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1 **STEVE FARBER:** IT IS 9.6% IN THE TAX-SUPPORTED BUDGET. THE
2 AGGREGATE OPERATING BUDGET--

3

4 **COUNCILMEMBER ANDREWS:** OH, THAT'S RIGHT. IT'S THE OTHER WAY
5 AROUND. 9.6% IN THE TAX AND 8.2% IN THE AGGREGATE. THE AVERAGE
6 FOR THE PREVIOUS TEN BUDGETS, IF I RECALL, WAS 6% OVERALL. SO
7 THIS IS CONSIDERABLY LARGER THAN THE AVERAGE OF THE PAST TEN.
8 AND AS YOU SAID, IF YOU LOOK AT INDIVIDUAL ITEMS, ONE CAN SAY,
9 "OH, THAT LOOKS GOOD, THAT LOOKS GOOD, EVERYTHING LOOKS GOOD."
10 BUT I THINK THAT THE COUNTY EXECUTIVE MUST BE A FAN OF MAE
11 WEST WHO ONCE SAID THAT TOO MUCH OF A GOOD THING IS WONDERFUL,
12 BUT SHE WASN'T TALKING ABOUT BUDGETS. I DON'T THINK SO. SO
13 SINCE IT IS UNSUSTAINABLE, BECAUSE IF WE KEPT THIS UP FOR MORE
14 THAN A FEW YEARS, MOST HOMEOWNERS WOULD SEE THEIR TAX BILLS
15 DOUBLE IN SEVEN, EIGHT, NINE YEARS. THAT IS NOT SUSTAINABLE.
16 BUT THE FISCAL PLAN THAT WE HAVE RECEIVED, AND HAD LAST YEAR,
17 IS BASED ON ASSUMING 8% TO 10% INCREASES FOR THE NEXT SEVERAL
18 YEARS IN PROPERTY TAX REVENUES, JUST GOING BY THE CHARTER
19 LIMIT. NOW, THE CHARTER LIMIT DOESN'T REQUIRE A CUT IN
20 SPENDING. IT ALLOWS AN INCREASE IN REVENUES. THE DIFFERENCE IS
21 IT ALLOWS AN INCREASE, AS YOU KNOW, UP TO THE INFLATION RATE,
22 EXCLUDING NEW CONSTRUCTION. SO, EVEN WITH CHARTER LIMIT THERE
23 IS STILL \$25 MILLION OR SO MORE COMING IN, DEPENDING ON THE
24 EXACT AMOUNT OF NEW DEVELOPMENT THAT OCCURS, ABOVE WHAT CAME
25 IN LAST YEAR. I THINK IT IS IMPORTANT THAT PEOPLE UNDERSTAND

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1 THAT THE CHARTER LIMIT IS SET AT ROUGHLY THE INFLATION RATE.
2 IT'S NOT SET AT A CUT. AND SO, WHEN WE ARE TALKING ABOUT
3 WORKING TO GET TO THE CHARTER LIMIT ON THE PROPERTY TAX
4 REVENUES, WE ARE LOOKING AT LIMITING THE INCREASE IN
5 ADDITIONAL PROPERTY TAX REVENUES THAT WOULD COME IN, IN THE
6 FOLLOWING YEAR TO ROUGHLY THE RATE OF INFLATION. WHAT THE
7 COUNTY EXECUTIVE HAS PROPOSED IS THAT WE TAKE IN PROPERTY TAX
8 REVENUES ABOUT \$62 MILLION ABOVE THE RATE OF INFLATION, THAT
9 THAT WOULD ALLOW. SO I THINK THAT IS IMPORTANT FOR THE PUBLIC
10 TO UNDERSTAND, BECAUSE THE CHARTER LIMIT CAN BE MISUNDERSTOOD.
11 CERTAINLY, IT WAS NEVER ENVISIONED WHEN THE CHARTER LIMIT WAS
12 ADOPTED THAT IT WOULD BE EXCEEDED REGULARLY. AND WE'RE IN
13 DANGER OF GETTING TO THAT POINT, WITH THREE IN A ROW. I THINK
14 THIS IS THE YEAR THAT WE HAVE TO BREAK THE PATTERN OF THE LAST
15 THREE AND GET BACK TO ADHERING TO THE CHARTER LIMIT. NOT JUST
16 BECAUSE IT IS SOMETHING THAT WAS ADOPTED IN 1990, BUT BECAUSE
17 WE SHOULD BE TRYING TO KEEP THE PROPERTY TAX SHARE OF THE
18 BUDGET TO A REASONABLE LEVEL. PROPERTY TAXES ARE REGRESSIVE
19 BECAUSE THEY ARE NOT BASED ON INCOME, AND WE HAVE MANY OTHER
20 REVENUE SOURCES, AS YOU KNOW, THAT WE DO DRAW FROM. AND WE
21 HAVE A MORE DIVERSE REVENUE BASE THAN MANY COUNTIES IN THE
22 STATE, SO WE ARE NOT AS DEPENDENT, AND SHOULDN'T BE AS
23 DEPENDENT, ON PROPERTY TAX REVENUES AS SOME OTHER PLACES. AND
24 SO THERE ARE NUMBER OF REASONS WHY WE SHOULD WORK TO GET DOWN
25 TO THE CHARTER LIMIT. I WOULD ALSO POINT OUT THAT, IF YOU HAVE

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1 8% TO 10% INCREASES IN PROPERTY TAX BILLS ON A REGULAR BASIS,
2 THAT MAKES IT MUCH HARDER FOR MANY PEOPLE TO BE ABLE TO AFFORD
3 TO STAY IN THEIR HOME, AND FOR MANY PEOPLE TO BE ABLE TO
4 PURCHASE A HOME. SO IT IS AN ISSUE THAT, FOR MANY REASONS, WE
5 SHOULD ADDRESS. I THINK IT IS VERY IMPORTANT THAT WE ADDRESS
6 IT THIS YEAR. MY VIEW IS THAT, BECAUSE THE BUDGET IS SO LARGE,
7 THERE IS REALLY NO REASON THE COUNCIL SHOULD NOT BE ABLE TO
8 ADHERE TO THE CHARTER LIMIT. BECAUSE THERE WOULD STILL BE A
9 BUDGET INCREASE OF 7.5% IN THE TAX-SUPPORTED PART IF THAT IS
10 CORRECT, AND AN INCREASE IN REVENUE OVERALL OF-- SPENDING
11 OVERALL, OF ABOUT \$214 MILLION COUNTING DEBT SERVICE, AND
12 ABOUT \$185 MILLION FOR THE AGENCIES. SO THAT IS STILL LARGER
13 THAN THE AVERAGE INCREASE IN THE BUDGET FOR THE LAST TEN YEARS,
14 EVEN IF WE ARE AT THE CHARTER LIMIT THIS YEAR. SO FOR ALL
15 THOSE REASONS, I THINK THIS COUNCIL MUST FIND A WAY TO GET
16 THERE. AND I THINK WE SHOULD BE ABLE TO GET THERE. SO, THANK
17 YOU FOR LAYING OUT VERY CLEARLY THE BUDGET. WE'RE VERY LUCKY
18 TO HAVE YOU. AND THE HARDER ONE LOOKS AT THE BUDGET, THE
19 BIGGER IT LOOKS, BECAUSE OF THE BACK-ENDING. AS YOU POINTED
20 OUT, A LOT OF THE POSITIONS ARE FUNDED ONLY PARTIALLY IN THE
21 FIRST YEAR. YOU USE THE POLICE OFFICERS AS AN EXAMPLE, BUT
22 THAT KICKS IN. ALL THOSE POSITIONS KICK IN THE FOLLOWING YEAR.
23 AND THAT IS EXCLUDING THE ADDITIONAL 40 OR 50 POSITIONS THAT
24 WE ASSUME WILL BE PROPOSED NEXT YEAR AS PART OF THE FIVE-YEAR
25 PLAN. SO, THIS YEAR'S BUDGET UNDERSTATES THE FISCAL IMPACT OF

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1 THE PLAN BY A SUBSTANTIAL DEGREE, BECAUSE IT ONLY ACCOUNTS FOR
2 ROUGHLY HALF THE POSITIONS AT A FULL-TIME LEVEL IN THE FIRST
3 YEAR. THANK YOU FOR YOUR ANALYSIS.

4

5 **COUNCILMEMBER PEREZ:** MR. KNAPP?

6

7 **COUNCILMEMBER KNAPP:** WELL, I'M GUESS IF WE GO DOWN THIS ROAD--

8

9 **COUNCILMEMBER PEREZ:** YES, I WAS THE ONE WHO ASKED HIM A
10 QUESTION. I PROBABLY SHOULD LET HIM GO THROUGH.

11

12 **COUNCILMEMBER KNAPP:** I HAVE A COMMENT, BUT I HAD ONE QUESTION
13 JUST RELATING TO THE CHART, THAT YOU GOT US TO, MR. PRESIDENT.
14 STEVE, DO WE HAVE RETIREE BENEFITS PROJECTIONS BEYOND FY '06?
15 IT DOESN'T LOOK LIKE THEY'RE IN THIS PACKET, BUT THAT YOU CAN
16 GET US SO WE CAN BEGIN TO SEE-- IT LOOKS LIKE THIS IS THE TIP
17 OF THE ICEBERG. DO YOU HAVE SOMETHING THAT SHOWS WHAT THE REST
18 LOOKS OF THE ICEBERG LIKE?

19

20 **STEVE FARBER:** YES. O.M.B. DOES AN EXCELLENT JOB WORKING WITH
21 O.H.R. TO CREATE SIX-YEAR FISCAL PROJECTIONS, AND WE HAVE ONE
22 FOR THE HEALTH FUND, THE HEALTH BENEFITS FUND. IN FACT, WE'RE
23 GOING TO BE TAKING THAT UP NEXT MONDAY IN M.F.P., WHEN WE DO
24 COMPENSATION. THERE IS A LINE IN THAT TABLE THAT PROJECTS NOT

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1 ONLY FOR ACTIVE EMPLOYEES, BUT FOR RETIRED EMPLOYEES, WHAT THE
2 OBLIGATION WILL BE.

3

4 **COUNCILMEMBER KNAPP:** SO THAT WILL BE IN THE M.F.P. PACKET FOR
5 LATER?

6

7 **STEVE FARBER:** YES, IT'S OUT THURSDAY FOR NEXT MONDAY.

8

9 **COUNCILMEMBER KNAPP:** I HAVE OTHER COMMENTS FOR LATER.

10

11 **COUNCILMEMBER PEREZ:** YEAH, I HAVE SOME, TOO.

12

13 **COUNCILMEMBER FLOREEN:** MAY I JUST ASK A QUESTION RELATED TO
14 THAT POINT? WHEN YOU DO THAT, OR AT SOME POINT, CAN WE GET, I
15 GUESS, A SIX-YEAR PROJECTION OF RETIREMENT BENEFITS AS WE
16 UNDERSTAND THEM, WITH THE CONTRACT THAT WE WILL BE APPROVING
17 OR REVIEWING AND THE LIKE, SO THAT WE KNOW WHAT IS ON THE
18 TABLE AS OF THIS MOMENT, OVER SIX YEARS? I KNOW YOU HAVE RUN
19 SOME OF THOSE NUMBERS FOR A COUPLE OF YEARS.

20

21 **STEVE FARBER:** YES. ARE YOU TALKING ABOUT THE NEW FIRE
22 CONTRACT?

23

24 **COUNCILMEMBER FLOREEN:** YES, TO INCLUDE THAT IN THERE.

25

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1 **STEVE FARBER:** YES. ACTUALLY, WE HAVE THAT INFORMATION. IT WILL
2 BE TAKEN UP MONDAY. THE NEW FIRE CONTRACT HAS NO FISCAL IMPACT
3 FOR RETIREMENT IN '06. IT HAS A \$4.5 MILLION INCREMENTAL
4 IMPACT IN '07, AND THEN IN YEARS THEREAFTER AS WELL.

5

6 **COUNCILMEMBER FLOREEN:** YES. SO, WHERE YOU HAVE THAT FOR SIX
7 YEARS OR FOUR YEARS OR MORE THAN THE NEXT TWO?

8

9 **STEVE FARBER:** WE CAN CERTAINLY DEVELOP IT. WE HAVE IT NOW FOR
10 THREE YEARS, AND WE CAN PLAY IT OUT. BASICALLY WHAT HAPPENS IS
11 THAT THE ACTUARIES LOOK AT THE RETIREMENT PROVISIONS IN A
12 CONTRACT, AND THEY INDICATE WHAT ADDITIONAL COUNTY
13 CONTRIBUTION THERE HAS TO BE IN ORDER TO PAY BENEFITS OVER
14 TIME. AND MY RECOLLECTION IS THAT THE FIRE CONTRACT PROVISIONS,
15 THE 20-YEAR RETIREMENT, WOULD ADD ABOUT \$25 MILLION IN
16 ACTUARIAL LIABILITY, AND THAT IT WOULD BE ABOUT \$4.5 MILLION
17 THAT WOULD BE NEEDED TO FUND THAT OVER A 40-YEAR PERIOD.

18

19 **COUNCILMEMBER FLOREEN:** OKAY. I'LL SAVE THE REST OF MY
20 QUESTIONS. JUST ON THAT SUBJECT, THANK YOU.

21

22 **COUNCILMEMBER PEREZ:** LET'S MOVE. IF YOU CAN FINISH UP, THEN
23 WE'LL-- EVERYBODY'S LIGHT IS ON, JUST ABOUT.

24

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1 **STEVE FARBER:** I WILL MAKE A JUST COUPLE OF OTHER QUICK POINTS.
2 ON MARCH 22ND, THE COUNCIL PRESIDENT ORGANIZED A REALLY GOOD
3 PANEL ON FEDERAL AND STATE PROPOSED CUTS. YOU REFERRED TO
4 THOSE, MR. PEREZ. ED ROSADO, THE LEGISLATIVE DIRECTOR OF THE
5 NATIONAL ASSOCIATION OF COUNTIES, WAS HERE. AND I THINK HE
6 OFFERED SOME ADVICE THAT WE SHOULD REMEMBER. WHAT HE SAID IS
7 LOOK, AS YOU PROJECT FORWARD, YOU AND OTHER LOCAL GOVERNMENTS
8 NATIONWIDE, BE CAUTIOUS. HE WAS TALKING ABOUT THE PROPOSED
9 FEDERAL BUDGET CUTS. WE KNOW ABOUT THE DELETERIOUS IMPACT A
10 LOT OF THOSE WOULD HAVE. THE GOOD NEWS FOR '06 IS THAT,
11 BECAUSE OF THE POSITIONING OF FEDERAL FISCAL YEAR LATER THAN
12 OURS, THEY REALLY ARE NOT GOING TO HAVE, WE THINK, TOO MUCH OF
13 AN EFFECT IN '06, ALTHOUGH WE DID HEAR FROM SCOTT MINTON THAT
14 THERE ALREADY HAVE BEEN SOME EFFECTS ON THE HOUSING FRONT. BUT
15 WHAT ED ROSADO WAS SAYING WAS LOOK, WITH RESPECT TO, SAY, THE
16 COMMUNITY DEVELOPMENT BLOCK PROGRAM, IT MAY BE THAT CONGRESS
17 WILL NOT GO ALONG WITH TOTAL RESTRUCTURING OF THAT PROGRAM AND
18 MOVING IT FROM H.U.D. OVER TO COMMERCE. THAT MAY NOT HAPPEN,
19 BUT WHAT IS LIKELY TO HAPPEN IS THAT THERE WILL BE A
20 RESTRICTION OF THAT FUNDING. THAT IS GOING TO HAPPEN NOT WITH
21 C.B.D.G., BUT WITH A HOST OF OTHER PROGRAMS. YOU MENTIONED, MR.
22 PEREZ, ADULT EDUCATION, AND WE HEARD A VERY STRONG
23 PRESENTATION ABOUT THAT AND MANY OTHER PROGRAMS AS WELL. SO I
24 THINK THIS IS ANOTHER REASON AS WE LOOK FORWARD AT THE COUNTY
25 BUDGET DOWN THE ROAD, TO MAKE SURE THAT WE HAVE OUR EYES WIDE

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1 OPEN. ANOTHER POINT IN THAT REGARD REALLY GOES BACK TO THE
2 BUDGET THAT CONFRONTED THIS COUNCIL WHEN IT FIRST TOOK OFFICE.
3 THE '04 BUDGET THAT YOU FACED TWO YEARS AGO WAS THE TOUGHEST
4 SINCE EARLY '90S, AND I'M SORRY THAT THIS NEW COUNCIL HAD TO
5 START OFF THAT WAY. BUT YOU DID, AND YOU SOLVED THAT PROBLEM.
6 BUT BASICALLY, IN THAT BUDGET, THERE WERE DEEP BUDGET CUTS.
7 THERE WERE LARGE TAX INCREASES AND UNFORTUNATELY, THERE WAS
8 THE DEFERRAL OF NEGOTIATED PAY INCREASES. AND I THINK WHAT IS
9 IMPORTANT IS TO REMEMBER THAT THAT WAS JUST TWO YEARS AGO. THE
10 ECONOMY IS MUCH BETTER NOW, BUT THE BUSINESS CYCLE HASN'T BEEN
11 REPEALED. IN THE LAST 25 YEARS, WE'VE SEEN SHARP RECESSIONS OR
12 DOWNTURNS IN EARLY '80S, THE EARLY '90S AND THEY EARLY PART OF
13 THIS DECADE. AND IT IS IMPORTANT TO MAKE SURE WE HAVE A
14 SPENDING BASE THAT WE CAN SUSTAIN OVER TIME, RATHER THAN BE IN
15 THAT POSITION THAT WE WERE IN TWO YEARS AGO. I THINK, FINALLY,
16 IT IS IMPORTANT TO REMEMBER, AS MR. PEREZ POINTED OUT, THAT
17 MEMBERS OF THIS COUNCIL HAVE PRIORITIES OF THEIR OWN. THIS IS
18 AN EXCELLENT BUDGET IN THE SENSE THAT IT COVERS AN AWFUL LOT
19 OF VERY PRODUCTIVE GROUND. IT HAS AN AWFUL LOT OF APPEALING
20 FEATURES TO IT BUT NO BUDGET, NO MATTER HOW LARGE, CAN COVER
21 ALL ISSUES. AND THERE ARE SOME THAT MEMBERS OF THIS COUNCIL
22 HAVE RAISED THAT ARE NOT INCLUDED. MR. PEREZ MENTIONED
23 INFRASTRUCTURE MAINTENANCE, AND THAT'S A REAL PROBLEM. THE
24 MORE WE CAN DO HERE, BOTH IN THE OPERATING BUDGET AND CAPITAL
25 BUDGET, WE SHOULD, PARTICULARLY BECAUSE THESE ARE ONE-TIME

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1 EXPENDITURES AS OPPOSED TO ONES THAT STAY WITH US OVER TIME.
2 IN HEALTH AND HUMAN SERVICES, THERE'S SOME EXCELLENT PROPOSALS
3 - MONTGOMERY CARES, THE MINORITY HEALTH INITIATIVES. BUT THERE
4 ARE OTHER THINGS INCLUDING, AS YOU MENTIONED, MR. PRESIDENT,
5 OUR MUCH MORE OPEN GRANT PROCESS THIS YEAR, THAT WILL PROVIDE
6 OTHER OPPORTUNITIES FOR FUNDING. INFORMATION TECHNOLOGY IS
7 ANOTHER AREA YOU MENTIONED. IN THE FIRE RESCUE SERVICE,
8 APPARATUS MANAGEMENT, CLARKSBURG AREA SERVICE, AND STAFFING
9 ISSUES ARE IMPORTANT. WE TALKED ABOUT FEDERAL AND STATE AID
10 ISSUES, PROPERTY TAX RELIEF, GASOLINE AND UTILITIES, THE
11 SHARPLY RISING PRICES IN BOTH AREAS MAY REQUIRE SOME
12 ADDITIONAL FUNDING. SO, THERE ARE PRIORITIES THAT ARE NOT
13 REFERENCED IN THIS BUDGET THAT THIS COUNCIL WILL WANT TO MAKE
14 ROOM FOR. I THINK MR. SILVERMAN, THE WORD YOU USED TO USE WAS
15 "RECYCLE." WE TAKE THE EXECUTIVE'S BUDGET AND WE RECYCLE
16 CERTAIN PORTIONS OF IT TO TURN IT TO THINGS THAT MEMBERS OF
17 THIS COUNCIL FEEL--

18
19 **COUNCILMEMBER FLOREEN:** IS THAT OUR GOAL?

20
21 **STEVE FARBER:** RIGHT, RIGHT. THERE'S SOME REAL RECYCLING, MR.
22 DENIS, RIGHT. BUT ONCE AGAIN, THIS YEAR THE COUNCIL WILL
23 RECYCLE CERTAIN PARTS OF THE EXECUTIVE'S BUDGET TO TURN IT TO
24 ITS PRIORITIES, AND THAT IS AS IT SHOULD BE, BUT WE NEED TO

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1 MAKE ROOM FOR THOSE PRIORITIES AS WELL. WITH THAT, I WILL STOP
2 AND LET'S GO TO QUESTIONS.

3

4 **COUNCILMEMBER PEREZ:** OKAY, MS. FLOREEN?

5

6 **COUNCILMEMBER FLOREEN:** THANK YOU. A COUPLE OF BASIC QUESTIONS.
7 I THINK IT IS A REMARKABLE MEMO. I WANTED TO THANK YOU, STEVE.
8 I JOIN EVERYBODY ELSE IN SAYING THAT I THINK IT IS FULL OF
9 FASCINATING INFORMATION. THIS IS THE FIRST TIME IN A QUARTER
10 CENTURY THAT A COUNTY EXECUTIVE HAS FULLY FUNDED ALL OUTSIDE
11 AGENCIES?

12

13 **STEVE FARBER:** YES, IT IS. WE HAVE HAD THE COUNTY EXECUTIVE
14 SYSTEM FOR 35 YEARS. IT MAY BE THE FIRST TIME EVER, BUT IT'S
15 THE FIRST TIME WE WERE ABLE TO TRACE IT.

16

17 **COUNCILMEMBER FLOREEN:** OH, SO IN FACT YOU CAN COUNT IT. YOU
18 CAN FIGURE THAT OUT. INTERESTING. I WANTED TO ASK YOU ABOUT
19 THE REVENUE ESTIMATES THAT THE BUDGET IS BASED ON. IN '05,
20 THIS CURRENT YEAR, DO WE HAVE A PRETTY GOOD HANDLE AT THIS
21 POINT ON WHAT WE UNDERSTAND THE '05 REVENUE TO BE OVER WHAT
22 WAS ESTIMATED? I THINK WE DO.

23

24 **STEVE FARBER:** YES, WE DO. I THINK, IF YOU TURN TO PAGE 19A OF
25 THE PACKET, YOU WILL SEE IT VERY CLEARLY. IF YOU WILL LOOK AT

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1 THE TOP OF COLUMNS B AND C, REVENUE, YOU SEE THE APPROVED
2 AMOUNT THAT WE--

3

4 **COUNCILMEMBER FLOREEN:** ABOUT \$63 MILLION?

5

6 **STEVE FARBER:** IN TERMS OF THE DIFFERENCE, YES.

7

8 **COUNCILMEMBER FLOREEN:** IS THAT ALL IN PROPERTY TAX AND INCOME
9 TAX?

10

11 **STEVE FARBER:** WELL NO. YOU CAN GO ABOVE AND SEE WHERE IT COMES
12 FROM. IT'S REALLY NOT PROPERTY TAX AT ALL. INTERESTINGLY,
13 PROPERTY TAX IS SLIGHTLY LOWER THAN PROJECTED LAST MAY ON
14 CIRCLE 19A. THE INCOME TAX IS INDEED HIGHER. THE BIG INCREASE
15 COMES IN THE TRANSFER RECORDATION TAX, AND BECAUSE THE HOUSING
16 MARKET CONTINUED TO BE RED HOT, A LITTLE HOTTER THAN THE
17 FINANCE DEPARTMENT THOUGHT IT WOULD BE.

18

19 **COUNCILMEMBER FLOREEN:** AND THERE'S ALSO ABOUT \$30 MILLION MORE
20 IN INCOME TAX.

21

22 **STEVE FARBER:** YES, THAT'S CORRECT.

23

24 **COUNCILMEMBER FLOREEN:** THAT PERCENTAGE IS ABOUT AN-- IS WHAT
25 PERCENTAGE OVER WHAT WE ANTICIPATED?

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1

2 **STEVE FARBER:** WELL, THE \$30 MILLION WOULD BE--

3

4 **COUNCILMEMBER FLOREEN:** WELL, I MEAN, OF THE-- INCREASED
5 REVENUE OVER WHAT WAS ANTICIPATED.

6

7 **STEVE FARBER:** I SEE. YOU MEAN THE \$63 MILLION?

8

9 **COUNCILMEMBER FLOREEN:** YEAH.

10

11 **STEVE FARBER:** WELL, IT WOULD BE 63 DIVIDED BY 2870. ONE OF OUR
12 MATHEMATICIANS.

13

14 **COUNCILMEMBER FLOREEN:** WHATEVER THAT IS.

15

16 **STEVE FARBER:** IT LOOKS LIKE ABOUT, 6/30THS IS A FIFTH.

17

18 **COUNCILMEMBER FLOREEN:** I'M NOT GOING TO HOLD YOU TO THE MATH
19 RIGHT THIS SECOND, BUT I'M WONDERING IF WE-- IF SOMEONE KNOWS,
20 THAT WOULD BE HANDY.

21

22 **STEVE FARBER:** YES. 6/30THS. THAT WOULD BE ABOUT 2%, WOULDN'T
23 IT? ABOUT 2%.

24

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1 **COUNCILMEMBER FLOREEN:** 2%. AND IS IT REASONABLE TO ASSUME THAT
2 WE WOULD HAVE A SIMILAR INCREASE IN REVENUE OVER WHAT'S
3 BUDGETED FOR THE COMING YEAR?

4

5 **STEVE FARBER:** WELL, THAT'S VERY HARD TO SAY.

6

7 **COUNCILMEMBER FLOREEN:** DEPENDING UPON WHERE WE END UP. IS THAT
8 A STANDARD KIND OF INCREASE?

9

10 **SPEAKER:** NO, NO.

11

12 **COUNCILMEMBER FLOREEN:** WELL, IF YOU COULD TELL ME HOW THOSE
13 NUMBERS HAVE RUN HISTORICALLY.

14

15 **COUNCILMEMBER PRAISNER:** IT VARIES SIGNIFICANTLY, DEPENDING
16 UPON ON THE YEARS AND THE TIME. WHEN WE WERE GETTING A LOT OF
17 CAPITAL GAINS, INCOME TAX REVENUE WAS DRAMATICALLY MORE THAN
18 ANTICIPATED AND PROJECTED. I THINK WHEN WE HAVE STAFF FROM
19 FINANCE, WHO AREN'T HERE TODAY, HERE, THEY WILL BE ABLE TO
20 EXPLAIN. SOME OF THE PERCENTAGE INCREASE OVER PROJECTIONS IN
21 THE TRANSFER AND RECORDATION TAX, WHICH IS THE MOST VOLATILE
22 AND THE HARDEST TO PROJECT, IT VARIES BECAUSE OF RATE
23 INCREASES AS WELL. AND BECAUSE THE MARKET, YOU KNOW, THE
24 INTEREST MARKET HAS ALLOWED PEOPLE TO REFINANCE. THERE IS SOME
25 FEELING ON THE PART OF FINANCE THAT THAT IS FLATTENING OUT,

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1 BECAUSE OF THE FACT THAT MOST PEOPLE HAVE FINISHED REFINANCING.
2 BUT CERTAINLY, IF SOMETHING ELSE HAPPENS WITH INTEREST RATES,
3 THAT MAY TRIGGER THAT. BUT WE HAVE HAD YEARS WHERE THE DOLLAR
4 AMOUNTS HAVE BEEN DRAMATICALLY MORE, AND I THINK A PERCENTAGE
5 MORE, AND SIGNIFICANTLY MORE. THAT'S ALLOWED THE COUNTY
6 EXECUTIVE TO DO MORE IN HIS BUDGET WITH CHANGES IN REVENUE,
7 NANCY. I THINK WE CAN HAVE FINANCE HERE ON TUESDAY WHEN WE DO
8 SPENDING AFFORDABILITY, TO KIND OF ANSWER THOSE QUESTIONS FOR
9 YOU.

10

11 **COUNCILMEMBER FLOREEN:** BASED ON WHAT WE'RE SEEING IN THE
12 PAPERS AT LEAST THERE'S SOME TALK OF ADDITIONAL CAPITAL GAINS
13 THIS YEAR, AND OTHER ELEMENTS THAT MAY PLAY INTO THE MIX, I
14 THINK. I GUESS IT WOULD BE HELPFUL TO HEAR FINANCE'S
15 ASSESSMENT OF THE ISSUE.

16

17 **COUNCILMEMBER PRAISNER:** ONE OF THE ISSUES WITH CAPITAL GAINS
18 IS THAT FOLKS HAVE, I KNOW FROM CONVERSATIONS WITH QUITE A FEW
19 INDIVIDUALS, THEY HAVE CAPITAL LOSSES THAT THEY CONTINUE TO
20 CARRY OVER, SO ALTHOUGH--

21

22 **COUNCILMEMBER FLOREEN:** IT IS A BEAUTIFUL THING. WE APPRECIATE
23 THAT. OF COURSE, IT CAN BE--

24

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1 **COUNCILMEMBER PRAISNER:** FOLKS MAY BE SEEING MORE IN CAPITAL
2 GAINS BUT NOT REFLECTING IT IN INCOME TAX PAID, BECAUSE THEY
3 HAVE ONGOING CAPITAL LOSSES THAT THEY CAN APPLY THAT AGAINST
4 WHEN THEY PAY THEIR INCOME TAX.

5

6 **COUNCILMEMBER FLOREEN:** THE ELEMENTS THAT WORK INTO THOSE
7 REVENUE EXPECTATIONS, I KNOW WE HAVE TALKED ABOUT THEM
8 PREVIOUSLY AND I SUSPECT ARE VERY CONSERVATIVE. I GUESS I'M A
9 LITTLE CONCERNED THAT WE ARE OVERLY CONSERVATIVE ON REVENUE
10 SIGNS THAT ARE NOT PROPERTY TAX BASED, BECAUSE OUR WHOLE
11 BUDGET CONVERSATION HAS BEEN ABOUT THE PROPERTY TAX. THAT IS
12 WHAT WE ARE NATURALLY FOCUSING ON BECAUSE THAT IS WHAT IS
13 PRETTY MUCH LEFT TO US TO ADDRESS. BUT THAT REVENUE SOURCE, IT
14 SEEMS TO ME, WE NEED TO BE PRETTY CONFIDENCE THAT THOSE
15 NUMBERS ARE VERY, VERY RELIABLE AS WE BALANCE THE ISSUES OF
16 WHAT KINDS OF INITIATIVES WE CAN SUPPORT OVER AND ABOVE THE
17 CURRENT EFFORT. I THINK IT IS A HUGE ISSUE FOR US.

18

19 **STEVE FARBER:** THE PROPERTY TAX IS FAIRLY STRAIGHTFORWARD TO
20 PROJECT. THE MORE VOLATILE REVENUE SOURCES ARE THE INCOME TAX
21 AND ESPECIALLY THE TRANSFER RECORDATION TAX. IF THE HOUSING
22 MARKET TURNS, THEN YOUR TRANSFER RECORDATION TAX CAN SORT OF
23 REALLY GO DOWN VERY QUICKLY. THE INCOME TAX IS ALSO VOLATILE.
24 AND BECAUSE, IN MONTGOMERY COUNTY, WE HAVE A
25 DISPROPORTIONATELY HIGH DEPENDENCE ON CAPITAL GAINS, AND SINCE

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1 CAPITAL GAINS ARE VERY VOLATILE, THAT MAKES OUR INCOME TAX A
2 BIT HARDER TO PROJECT.

3

4 **COUNCILMEMBER FLOREEN:** YES, OF COURSE. HOW WE ADDRESS THAT
5 OVER THE COURSE OF THE YEAR, IN TERMS OF THE NATURE OF OUR
6 APPROACH TO SUPPLEMENTAL, MIGHT BE SOMETHING TO PUT ON THE
7 LIST TO THINK ABOUT. ONE QUESTION I'D LIKE FOLKS TO CLARIFY,
8 MAYBE NOT NOW, WE HEARD-- WE ARE ALL TALKING ABOUT DIFFERENT
9 PERCENTAGES. PERCENTAGES OF WHICH KIND OF BUDGET, DEPENDING
10 UPON WHETHER IT'S THE ESTIMATED, THE APPROVED, TOTAL,
11 AGGREGATE, AND PROBABLY A COUPLE OTHERS THAT I'M NOT FAMILIAR
12 WITH. SUPERINTENDENT WEAST LAST NIGHT ADVISED US THAT THE
13 SCHOOL'S BUDGET WAS ACTUALLY 6.8%, I THINK, A 6.8% INCREASE.
14 THAT IS A LITTLE DIFFERENT FROM WHAT YOU ARE TELLING US, AND I
15 THINK-- I CAN ONLY CONCLUDE THAT IT DEPENDS ON WHICH BASE
16 YOU'RE REFERRING TO. IF, BY THE TIME WE-- MAYBE NEXT WEEK YOU
17 CAN LET US KNOW HOW THAT SORTS OUT. IT WOULD BE VERY HELPFUL.

18

19 **STEVE FARBER:** YEAH, I THINK PROBABLY THE TABLE RUN AT 19A
20 GIVES YOU THE BEST INDEX OF THAT. THE BUDGET THAT WE USE FOR
21 SPENDING AFFORDABILITY, OUR TAX-SUPPORTED BUDGET, IS THE SO-
22 CALLED AGGREGATE OPERATING BUDGET. AND IF YOU WILL LOOK IN
23 COLUMN F, IN THE MIDDLE OF THE PAGE, WHAT YOU WILL SEE FOR
24 M.C.P.S. UNDER OPERATING BUDGET IS 7.4%. THAT IS THE TAX-
25 SUPPORTED INCREASE. THE TAX-SUPPORTED INCREASE FOR THE COLLEGE

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1 NET OF TUITION IS 9%. FOR COUNTY GOVERNMENT, THE INCREASE IS
2 12.4%. FOR PARK AND PLANNING, IT'S 12.2%. THOSE ARE THE
3 NUMBERS THAT WE WORK FROM IN OUR TAX-SUPPORTED BUDGET.

4

5 **COUNCILMEMBER FLOREEN:** THOSE ARE ALL-- AND THOSE ARE BASED ON
6 PROPERTY TAX, INCOME TAX AND THE TRANSFER TAXES. AND THE LIKE.
7 AND THAT INCLUDES STATE AID?

8

9 **STEVE FARBER:** IT INCLUDES, YES, GENERAL STATE AND FEDERAL AID.
10 WHAT IT DOESN'T INCLUDE IS SPECIFIC GRANTS, OF WHICH WE HAVE
11 \$155 MILLION, SUCH AS THE C.O.P.S. GRANT, WHICH MAY BE THERE
12 ONE YEAR BUT NOT THE NEXT.

13

14 **COUNCILMEMBER FLOREEN:** PERHAPS THAT IS THE DIFFERENCE WITH THE
15 SCHOOL SYSTEM, I DON'T KNOW. BUT IF WE COULD STRAIGHTEN OUT
16 WHICH NUMBER IT IS THAT WE ARE LOOKING AT.

17

18 **COUNCILMEMBER PRAISNER:** WHY DON'T WE LOOK AT IT WITH SPENDING
19 AFFORDABILITY ON THURSDAY? .

20

21 **STEVE FARBER:** SURE. BASICALLY THE DIFFERENCE BETWEEN THIS
22 BUDGET, THE TAX-SUPPORTED BUDGET, AND THE TOTAL BUDGET IS THAT
23 THE TOTAL BUDGET INCLUDES SPECIFIC GRANTS AND ENTERPRISE FUNDS.

24

25 **COUNCILMEMBER FLOREEN:** RIGHT.

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1

2 **STEVE FARBER:** BUT THE ONE WE USE FOR OUR OWN TAX-SUPPORTED
3 PURPOSES IS THIS BUDGET, THE SPENDING AFFORDABILITY COMPARISON
4 BUDGET, THE AGGREGATE OPERATING BUDGET.

5

6 **COUNCILMEMBER FLOREEN:** THE AGGREGATE OPERATING BUDGET IS THE
7 TAX-SUPPORTED BUDGET?

8

9 **STEVE FARBER:** YES.

10

11 **COUNCILMEMBER FLOREEN:** MINUS WHAT, THE IDENTIFIED ITEM? OKAY.
12 WELL, THIS IS A FASCINATING DOCUMENT. WE HAVE ALREADY STARTED
13 THIS CONVERSATION, AS YOU KNOW, OVER THE PAST WEEK AND A HALF
14 I GUESS, AND OBVIOUSLY IT'S GOING TO CONTINUE. BUT THIS IS A
15 VERY HELPFUL COMPARISON. I'D JUST NOTE, THIS MORNING THE POST
16 RAN A STORY, A FASCINATING STORY, ABOUT THE COMPARISON OF TAX
17 LOADS WITHIN THE JURISDICTION. I DON'T KNOW IF THEY HAD-- IF
18 THEY WERE COMPARING APPLES TO APPLES, AND PERHAPS YOU COULD
19 GET BACK TO US ON WHETHER OR NOT THE INCOME TAX ELEMENT THAT
20 WE HAVE IN MONTGOMERY COUNTY MAKES A DIFFERENCE IN THE
21 COMPARISONS WITH THE OTHER JURISDICTIONS--

22

23 **STEVE FARBER:** IT DOES.

24

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1 **COUNCILMEMBER FLOREEN:** I WOULD SUSPECT IT DID BECAUSE
2 OTHERWISE THAT CHART WAS-- IT COMPARED THE SAME THINGS, BUT
3 MAY NOT HAVE COMPARED THE OVERALL BASE NUMBERS AND MIGHT LEAD
4 TO CONCLUSIONS THAT MAY OR MAY NOT BE ENTIRELY COMPLETE, LET
5 ME PUT IT THAT WAY.

6

7 **STEVE FARBER:** THERE IS A HUGE IMPACT WE HAVE, FROM THE FACT WE
8 HAVE A MUCH MORE BALANCED REVENUE SYSTEM. WE ARE VERY
9 FORTUNATE. WE HAVE A 3.2% INCOME TAX. FAIRFAX, ALL OF NORTHERN
10 VIRGINIA COUNTIES, THE VIRGINIA COUNTIES, COUNTIES HAVE NO
11 SUCH THING, AND WHAT IT MEANS IS THAT THEY ARE FAR MORE
12 RELIANT ON PROPERTY TAX THAN WE ARE. THEREFORE EACH YEAR, AND
13 THEY REASSESS EACH YEAR, THEY HAVE TO MAKE FAR MORE DRAMATIC
14 REDUCTIONS. WE DO HAVE A 10% CAP ON ASSESSMENT INCREASES FOR
15 OWNER-OCCUPIED PROPERTY AND THAT--

16

17 **COUNCILMEMBER FLOREEN:** THIS IS FOR TIM'S BENEFIT.

18

19 **STEVE FARBER:** AND THAT CERTAINLY HELPS, BUT OF COURSE 10%
20 STILL IS 10%.

21

22 **COUNCILMEMBER FLOREEN:** YEAH.

23

24 **COUNCILMEMBER PRAISNER:** VIRGINIA [INAUDIBLE]

25

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1 **COUNCILMEMBER FLOREEN:** THERE ARE OBVIOUSLY ARE A VARIETY OF
2 THINGS, BUT IN TERM OF THE OVERALL COSTS, I THINK.

3

4 **STEVE FARBER:** WELL CERTAINLY, OUR REVENUE SYSTEM IS A FAR MORE
5 BALANCED ONE, AND THAT'S BEEN VERY HELPFUL TO US.

6

7 **COUNCILMEMBER FLOREEN:** OKAY, THANK YOU.

8

9 **COUNCILMEMBER PEREZ:** WE'LL GO RIGHT DOWN THE ROW, WHICH MEANS
10 MR. SUBIN WILL BE NEXT.

11

12 **COUNCILMEMBER SUBIN:** THANKS, MR. PRESIDENT. MR. FARBER, EVEN
13 THOUGH THE EXECUTIVE FOR THE FIRST TIME FULLY FUNDED THE
14 OUTSIDE AGENCIES, IT STILL DOESN'T EVEN COME CLOSE TO THE
15 INCREASE IN THE FUNDING FOR COUNTY GOVERNMENT, IF I'M READING
16 YOUR 19A RIGHT.

17

18 **STEVE FARBER:** RIGHT. WELL, BASICALLY--

19

20 **COUNCILMEMBER SUBIN:** WITH THE EXCEPTION OF PARK AND PLANNING.

21

22 **STEVE FARBER:** WITH THE EXCEPTION OF PARK AND PLANNING, YES,
23 THE INCREASE THIS YEAR. BASICALLY, WHAT MR. SHERER AND I DID
24 WAS TO LOOK BACK FIVE YEARS, INCLUDING '06, IN TERMS OF
25 INCREASES FOR THE DIFFERENT AGENCIES BECAUSE WE THOUGHT THAT

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1 WAS A FAIR COMPARISON. BASICALLY FOR COUNTY GOVERNMENT, PARK
2 AND PLANNING, AND THE COLLEGE. THE INCREASE WAS ABOUT 34% TO
3 35%. THEY WERE VERY MUCH THE SAME. THE SCHOOL SYSTEM WAS UP
4 45% IN THAT PERIOD. IT HAPPENS THAT, IN '06, THE SCHOOL
5 SYSTEM'S INCREASE IS LESS. AND IT IS CONSIDERABLY LESS, AS YOU
6 SAY, 7.4% VERSUS 12.4% FOR COUNTY GOVERNMENT. BUT OVER A
7 LONGER PERIOD OF TIME, THOSE FIGURES DO CHANGE.

8

9 **COUNCILMEMBER SUBIN:** DID THE EXECUTIVE ADDRESS THE ISSUE OF
10 INCREASED CAPITAL COSTS, BECAUSE OF INCREASE IN MATERIALS
11 COSTS AND CONSTRUCTION? IS THAT TAKEN INTO CONSIDERATION IN
12 THIS BUDGET?

13

14 **STEVE FARBER:** WELL, IT REALLY WOULDN'T BE TAKEN UP SO MUCH
15 HERE AS IN THE CAPITAL BUDGET AND THE C.I.P.. THERE ARE SOME
16 OF THOSE ISSUES THAT ARE ADDRESSED.

17

18 **COUNCILMEMBER SUBIN:** IS IT TAKEN UP IN THE AMENDMENTS?

19

20 **STEVE FARBER:** YES. WELL, I THINK IT'S TAKEN UP TO SOME DEGREE
21 IN THE AMENDMENTS. SPEAKER: [INAUDIBLE]

22

23 **STEVE FARBER:** NOT AT ALL?

24

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1 **COUNCILMEMBER SUBIN:** THAT WOULD BE SUPPLEMENTAL. COUNCILMEMBER
2 **PRAISNER:** [INAUDIBLE] MODIFIED BUDGET.

3

4 **COUNCILMEMBER PEREZ:** GO AHEAD, GLENN.

5

6 **DR. ORLIN:** WE HAVEN'T RECEIVED ANY C.I.P. AMENDMENTS FROM THE
7 EXECUTIVE ASKING FOR ANY MORE MONEY FOR COUNTY GOVERNMENT
8 PROJECTS IN THE C.I.P. AS THE COST INCREASES. SHE SAYS THERE'S
9 NONE THAT SHE KNOWS OF COMING OVER.

10

11 **COUNCILMEMBER SUBIN:** WELL, BUT THOSE COSTS DIDN'T INCREASE
12 WITHIN THE LAST MONTH OR TWO. THEY'VE BEEN STEADILY GOING UP
13 OVER THE YEAR.

14

15 **DR. ORLIN:** HISTORICALLY WHAT COUNTY GOVERNMENT PROJECTS HAVE
16 DONE IS THAT, IF THE COSTS COME IN HIGHER THAN WHAT THE AMOUNT
17 IS IN THE PROGRAM, THEY DOWN SCOPE THE PROJECT. THEY TRY TO
18 STAY WITHIN THEIR BUDGET TO THE EXTENT THEY CAN. THAT'S
19 HISTORICALLY WHAT THEY HAVE BEEN DOING.

20

21 **COUNCILMEMBER SUBIN:** BUT NOT WHAT THE OUTSIDE AGENCIES HAVE
22 DONE.

23

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1 **DR. ORLIN:** SO FAR, WE HAVEN'T GOTTEN REQUESTS FROM THE OUTSIDE
2 AGENCIES FOR MORE MONEY FOR THESE PROJECTS. I THINK WE ARE
3 ABOUT TO, FROM SCHOOLS.

4

5 **COUNCILMEMBER SUBIN:** WELL, WE TOLD THE SCHOOL SYSTEM TO SIT
6 PAT UNTIL THE END OF THE LEGISLATIVE SESSION, SO IT'S NOT
7 SIMPLY A MATTER OF THEY DIDN'T, OR THEY'RE NOT GOING TO.

8

9 **DR. ORLIN:** RIGHT. I THINK THEY ARE ABOUT TO.

10

11 **COUNCILMEMBER SUBIN:** SO THE CAPITAL BUDGET THEN IS, AT LEAST
12 FOR THE SCHOOLS, IF YOU LOOK AT THE STATE AID, THE NET IMPACT
13 OF A STATE AID AND THE INCREASED COSTS IS A DEFICIT OF ABOUT
14 \$10 MILLION ON THE CAPITAL SIDE. THAT DOESN'T ADDRESS EITHER
15 THE INCREASED COST OR SMALLER SCOPE OF THE COUNTY PROJECTS.

16

17 **STEVE FARBER:** THERE'S TWO OTHER ASPECTS TO THAT. THE
18 RECORDATION TAX INCREASE ASSOCIATED WITH SCHOOL CONSTRUCTION
19 IS A LITTLE BIT HIGHER THAN WHAT WE'D EXPECTED. WE REPORTED
20 THAT LAST FEBRUARY. ON THE OTHER HAND, THE SCHOOL IMPACT TAX
21 IS A LOT LOWER THAN WE ANTICIPATED, SO THE NET RESULT OF THAT
22 MEANS THE DEFICIT IS EVEN GREATER. IF YOU TAKE INTO ACCOUNT--

23

24 **COUNCILMEMBER SUBIN:** OKAY, SO THE IMPACT TAX DEFICIT WAS
25 GREATER THAN THE RECORDATION TAX INCREASE?

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1

2 **STEVE FARBER:** CORRECT, SO FAR.

3

4 **COUNCILMEMBER SUBIN:** SO IT'S AN IMPACT OF GREATER THAN \$10
5 MILLION FOR THE SCHOOLS.

6

7 **STEVE FARBER:** RIGHT. WE'LL HAVE A BETTER IDEA OF THIS WITHIN
8 THE NEXT SEVERAL WEEKS. WE'LL LOOK AT THE END OF APRIL. WE'LL
9 SEE THE RESULTS OF WHAT'S HAPPENED IN THE LAST FEW MONTHS.

10

11 **COUNCILMEMBER SUBIN:** WE TOLD THEM TO COME BACK THE FIRST WEEK
12 OF MAY. I GUESS PUBLIC HEARINGS ARE MAY 3RD. HOPEFULLY WE'LL
13 THE PROJECTS WHERE THEY ARE EITHER DEFERRING OR--

14

15 **STEVE FARBER:** RIGHT. THAT'S THOSE PROJECTS THAT WERE
16 INTRODUCED THIS MORNING- WERE ON AGENDA FOR MAY 3RD BECAUSE OF
17 THAT FLEXIBILITY.

18

19 **COUNCILMEMBER SUBIN:** OKAY. IN THE SCHOOL NUMBERS-- I'M ONLY
20 ASKING THIS, I GUESS, FOR CLARIFICATION BECAUSE YOU WOULDN'T
21 HAVE KNOWN AT THE TIME. THE FACT THAT DR. WEAST IS KNOWN TO BE
22 TRYING TO SAVE \$6 MILLION OR \$7 MILLION IS NOT IN HERE FOR
23 THIS YEAR, TO CARRY OVER TO NEXT YEAR. COUNCILMEMBER PRAISNER:
24 THE EXECUTIVE ASSUMED \$6 MILLION.

25

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1 **STEVE FARBER:** WE ASSUMED \$6 MILLION.

2

3 **COUNCILMEMBER SUBIN:** OH, YOU DID ASSUME THAT ALREADY. HOW DOES
4 THAT AFFECT THE AGGREGATE OPERATING COST INCREASE FIGURES?
5 BECAUSE THAT'S REALLY NOT AN INCREASE, IT'S JUST A SHIFT, THAT
6 \$6 MILLION.

7

8 **SUNIL PANDYA:** I THINK THAT'S WHY COUNCIL MEMBER FLOREEN WAS
9 SAYING THE SUPERINTENDENT HAS GIVEN HER A DIFFERENT PERCENTAGE.
10 MAYBE HE IS LOOKING AT IT DIFFERENTLY, BUT WE LOOK AT THE
11 INCREASE FROM '05 TO '06.

12

13 **COUNCILMEMBER SUBIN:** OKAY, I UNDERSTAND WHAT YOU ARE DOING. I
14 JUST RESPECTFULLY DISAGREE WITH THAT FORMULATION. AND IT IS
15 NOT-- AT LEAST FOR ME, IT IS NOT A PASSING ISSUE BECAUSE, IN
16 TRYING TO DETERMINE AT THE END OF THE DAY WHAT WE CUT FROM
17 WHERE AND WHAT ARE THE STANDARDS AND HOW DO WE LOOK AT IT,
18 THAT NUMBER BECOMES IMPORTANT. BECAUSE WE'RE GOING TO BE
19 CUTTING, I WOULD IMAGINE, MY INTENT AT LEAST IS, IN COMMITTEE,
20 TO CUT SOMETHING OUT OF THE ED BUDGET. AND SO THE ISSUE
21 BECOMES WHAT, IN TERMS OF WHERE WE CUT IN OTHER PLACES, IS
22 EQUITABLE AND HOW DEEP CAN WE GO WITHOUT AFFECTING THE
23 INITIATIVES. SO THAT BECOMES AN IMPORTANT NUMBER. I'M NOT-- I
24 UNDERSTAND HOW YOU CALCULATED IT, AND THAT IS RATIONAL. BUT
25 I'M JUST TRYING TO LOOK AT WHAT IS GOING ON, AND HOW MUCH

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1 EXTRA TAX SUPPORTED IN FISCAL '06-- THERE ARE FROM FISCAL '06.
2 THAT IS ALL. ALL RIGHT. THANK YOU.

3

4 **COUNCILMEMBER PEREZ:** MR. SILVERMAN?

5

6 **COUNCILMEMBER SILVERMAN:** THANK YOU, MR. PRESIDENT. A COUPLE OF
7 QUESTIONS, A COUPLE OF COMMENTS. THE FIRST QUESTION THAT I HAD
8 IS, ON CIRCLE 56, WHICH IS THE PUBLIC SERVICES PROGRAM, WHICH
9 SHOWS CONTINUING GAPS, WHICH THERE ALWAYS ARE, WHAT I'M NOT
10 QUITE UNDERSTANDING-- I WANT TO GO BACK TO MR. ANDREWS' POINT,
11 WHICH IS TIER THREE IS SIMPLY, IF I UNDERSTOOD IT, A CHART
12 THAT REFLECTS WHAT THE ESCALATING INCREASING GAP, I GUESS,
13 WOULD BE BETWEEN THE PROPERTY TAX AND THE FIT AMENDMENT. IS
14 THAT CORRECT?

15

16 **STEVE FARBER:** WELL, THE FIRST LINE IS-- MR. SILVERMAN, YOU ARE
17 RIGHT. THAT'S EXACTLY RIGHT. IT'S THE DIFFERENCE BETWEEN
18 CURRENT RATES AND THE CHARTER LIMIT, THE FIT AMENDMENT.

19

20 **COUNCILMEMBER SILVERMAN:** RIGHT, WHICH ESCALATES.

21

22 **STEVE FARBER:** WHICH ESCALATES AND TOTALS, OVER THE SIX YEARS,
23 \$1.8 BILLION DOLLARS.

24

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1 **COUNCILMEMBER SILVERMAN:** RIGHT, BUT I GUESS THE COMMENT THAT I
2 BELIEVE I HEARD WAS THAT THE P.S.P. ENVISIONS CONTINUING-- IT
3 ENVISIONS THAT THIS IS GOING TO BE THE WAY GAPS ARE CLOSED IN
4 THE FUTURE. WELL, WE ARE PRESUMABLY GOING TO CONTINUALLY BE
5 SEEING-- AND I'M TRYING TO UNDERSTAND WHY ONE-- IS THAT A
6 CORRECT ASSESSMENT OF THIS SITUATION? BECAUSE, WHEN YOU GO
7 BACK TO CIRCLE 19C, WHICH THE HISTORY OF THE COUNCIL IN TERMS
8 OF WHAT THE COUNCIL DID, THE COUNCIL IN '99 AND 2000, WHICH
9 WERE MY FIRST TWO YEARS ON THE COUNCIL, WE WERE AWASH IN
10 INCOME TAX REVENUES. NOT ONLY DID WE MEET THE CHARTER LIMIT,
11 WE WERE PROVIDING TAX RELIEF. SO WHY IS THERE AN ASSUMPTION
12 THAT WE WILL CONTINUE TO SEE PROPERTY TAX INCREASES IN THE
13 AGGREGATE ABOVE CHARTER LIMIT FOR AS LONG AS THE EYE CAN SEE?

14
15 **SPEAKER:** INAUDIBLE

16
17 **STEVE FARBER:** THESE ARE REALLY DIFFERENT SCENARIOS. TIERS 1, 2,
18 3 ARE THREE SEPARATE SCENARIOS. IN TIER 1, BASICALLY WHAT YOU
19 HAVE IS SURPLUSES. IF YOU ASSUME THAT WE STICK WITH CURRENT
20 RATES FOR THE SIX YEARS, AND IF YOU ALSO ASSUME THAT WE DO NOT
21 SUNSET THE ENERGY TAX INCREASE, IF YOU MAKE THOSE TWO
22 ASSUMPTIONS, THEN EVERYTHING IS IN GREAT SHAPE AND YOU DEVELOP
23 INCREASING SURPLUSES OVER THE SIX YEARS IN TIER 1. IN TIER 2,
24 WHAT YOU HAVE IS TIER 1 BUT WITH SOME ADDED EXPENDITURE
25 PRESSURES, PARTICULARLY TO COVER RETIREE HEALTH INSURANCE AND

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1 OTHER ILLUSTRATIVE EXPENDITURES. WHAT THAT DOES IS GIVE YOU
2 SOME-- UNDER THIS SCENARIO, SOME RELATIVELY SMALL GAPS IN '07
3 AND '08, AND THEN YOU'RE OFF TO THE RACES AGAIN WITH SURPLUSES.
4 IT'S ONLY WHEN YOU GET TO TIER 3-- AND AGAIN THIS IS AN
5 ASSUMPTION. IT'S A SCENARIO, THAT'S ALL IT IS. IF YOU ASSUME--
6 AND BY THE WAY, TIER 3 CONTINUES TO ASSUME THAT YOU HAVEN'T
7 SUNSETTED THE INCREASE IN THE ENERGY TAX. IF YOU GO WITH THE
8 CHARTER LIMIT, THE YEAR OVER YEAR IMPACT OF THAT IS SO LARGE
9 THAT WHAT YOU SEE AS BOTTOM-LINE RESULT, IS DEFICITS OF A
10 CONSIDERABLE SIZE. SO THESE ARE THREE TOTALLY SEPARATE
11 SCENARIOS THAT REALLY HAVE NO OTHER RELATIONSHIP TO EACH OTHER.
12

13 **COUNCILMEMBER SILVERMAN:** ALRIGHT. ONE THING I WOULD LIKE TO
14 GET, BECAUSE I DON'T SEE IN IT HERE, THERE IS A-- CIRCLE 19E
15 HAS A TEN-YEAR HISTORY OF PROPERTY TAX RATES. BUT WHAT I WOULD
16 ALSO LIKE TO GET IS SOME TYPE OF HISTORY, I ASSUME WE CAN GET
17 A TEN-YEAR HISTORY, ON PERCENTAGE OF THE PROPERTY TAX-- LET ME
18 SAY THIS RIGHT. WHAT PERCENTAGE THE PROPERTY TAX REVENUES ARE
19 OF OUR BUDGET, GOING BACK TEN YEARS? BECAUSE WE'VE GOT A PIE
20 GRAPH IN HERE SOMEWHERE THAT IS JUST A ONE-YEAR PICTURE. AND
21 MY UNDERSTANDING IS THAT, OVER THE TEN YEARS, THAT, STARTING
22 WITH WHEN THE PIGGY BACK TAX WAS INCREASED IN THE EARLY '90S,
23 THAT WAS REALLY AN ADJUSTMENT IN THE PIE BASICALLY, TO MOVE
24 THE OVERALL DOLLARS COMING OUT OF PROPERTY TAXES DOWN, ON A
25 PERCENTAGE BASIS OF-- SPEAKER: [INAUDIBLE]

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1

2 **COUNCILMEMBER SILVERMAN:** WELL, I UNDERSTAND THERE WERE TRADE-
3 OFFS. I RECOGNIZE THAT

4

5 **COUNCILMEMBER PRAISNER:** THE ABILITY WAS A TRADE-OFF THAT THE
6 LEGISLATURE GAVE US BECAUSE THEY GAVE US SOCIAL SECURITY.

7

8 **COUNCILMEMBER SILVERMAN:** NO, NO. I UNDERSTAND THAT. WHAT I
9 MEANT IS IN TERMS OF-- IF WE ARE GOING TO COMPARE THINGS IN
10 FAIRNESS, LET'S COMPARE- IF EVERYBODY LIKES TO COMPARE US TO
11 FOLKS ACROSS THE RIVER, FOLKS ACROSS RIVER DO NOT HAVE INCOME
12 TAX. WHEN YOU TALK ABOUT REGRESSIVE TAXES OR REGRESSIVE TAX
13 BURDENS, WE HAVE A MUCH BETTER SYSTEM IN MARYLAND, MUCH LESS
14 IN MONTGOMERY COUNTY, WHERE WE ARE USING DIFFERENT TAX BASES
15 IN ORDER TO PROVIDE REVENUES. I WOULD JUST LIKE TO GET A
16 TRACKING OF THE PROPERTY TAX REVENUES AS A PERCENTAGE OF OUR
17 BUDGETS FOR THE LAST TEN YEARS, SO WE CAN HAVE SOME
18 PERSPECTIVE ON WHERE WE'RE GETTING OUR REVENUES FROM.

19

20 **STEVE FARBER:** I BELIEVE IT'S NOW ABOUT 37%, AND I INFERRED
21 THAT IT WAS HIGHER BEFORE BECAUSE--

22

23 **COUNCILMEMBER SUBIN:** IT WAS 47%.

24

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1 **STEVE FARBER:** RIGHT. MR. DENIS HAD A QUESTION-- I ORIGINALLY
2 HAD IN 1990, AND WHAT THAT SAID WAS THAT YOU COULD ONLY GO UP
3 THREE-QUARTERS OF THE WAY OF INFLATION, AND THAT YOU HAD TO
4 RESTRICT PROPERTY TAX TO 37% OF THE AGGREGATE OPERATING BUDGET,
5 SO I THINK YOU ARE EXACTLY RIGHT, MR. SUBIN. IT WAS A LOT
6 HIGHER THEN, AND WE HAVE MADE OUR WE HAVE MADE OUR REVENUE MIX
7 A LOT MORE BALANCED SINCE THEN.

8

9 **COUNCILMEMBER SILVERMAN:** OKAY, IF YOU COULD PUT THAT TOGETHER
10 I WOULD APPRECIATE IT. I GUESS A COUPLE OTHER COMMENTS. AND I
11 WAS LISTENING TO MR. SUBIN'S DIALOGUE HERE ABOUT THE SCHOOLS.
12 YOU KNOW, WHEN WE END UP TAKING A LOOK AT THIS SITUATION THAT
13 WE ARE GOING TO FACE THIS SPRING IN THE SUGGESTION WE MOVE
14 TOWARD THE CHARTER LIMIT, CORRECT ME IF I'M WRONG, THE G.C.E.I.
15 MONEY, WHICH IS NOW OFF THE TABLE-- EVEN IF WE WERE TO CUT THE
16 \$12 MILLION THAT'S RELATED TO G.C.E.I. OUT OF THE SCHOOL
17 SYSTEM'S BUDGET, THAT DOES NOT GET US A DIME CLOSER TO CHARTER
18 LIMIT. SO WHEN WE TALK ABOUT MAKING CUTS IN THE RECOMMENDED
19 BUDGET THAT'S COME OVER FROM THE COUNTY EXECUTIVE RELATING TO
20 SCHOOLS, IN PREVIOUS YEARS WHEN WE WOULD LOOK AT AN AGGREGATE
21 AMOUNT OF MONEY AND SAY, "WELL, WE CAN TAKE OFF \$5 MILLION
22 HERE, \$8 MILLION THERE, WHATEVER, OFF THE SCHOOL SYSTEM'S
23 BUDGET," WE ARE ALREADY- IF WE DO NOTHING TO ADD BACK, WE ARE
24 ALREADY CUTTING THE PROPOSED SCHOOL SYSTEM'S BUDGET BY \$12
25 MILLION. THAT IS ABOUT HALF OF WHAT THE RECOMMENDED NEW

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1 INITIATIVES ARE IN THE SCHOOL SYSTEM'S BUDGET. SO WHEN WE
2 START TALKING ABOUT LOOKING AT SORT OF THE END GAME OF THE
3 BUDGET, WE'RE GOING TO HAVE TO BE MINDFUL THAT, IF WE ARE
4 LOOKING AT \$62 MILLION TO GET TO-- HOWEVER THAT OCCURS, TO GET
5 DOWN TO THE CHARTER LIMIT, WE'RE REALLY TALKING ABOUT CUTTING-
6 THEORETICALLY, CUTTING MORE INTO THE INITIATIVES THAT HAVE
7 BEEN PUT ON THE TABLE BY THE SCHOOL BOARD. MY UNDERSTANDING
8 WAS THE TOTAL AMOUNT OF NEW INITIATIVES SYSTEM WIDE WAS ABOUT
9 \$66 MILLION. \$34 MILLION OF IT IS IN COUNTY GOVERNMENT. ABOUT
10 \$4 MILLION IS IN PARK AND PLANNING. \$26.5 MILLION IS THE
11 SCHOOLS, AND \$700,000 IS IN THE COLLEGE. SO, WHEN WE'RE
12 LOOKING AT HOW MUCH WE CAN-- IF WE ARE SOLELY GOING TO USE THE
13 SCALPEL METHOD OF CUTTING, AND ON THE THEORY THAT YOU LOOK AT
14 NEW INITIATIVES FIRST, BECAUSE WE ALWAYS HAVE SUCH CHALLENGES
15 ADDRESSING THE BASE, IF SOMEBODY WANTED TO TAKE THE, QUOTE,
16 EASY ROUTE, THE EASY ROUTE WOULD BE SIMPLY TO WIPE OUT ALL THE
17 NEW-- WHEN I SAY "NEW INITIATIVES," I MEAN ABOVE SAME SERVICES
18 FROM LAST YEAR. AND I THINK-- AND THAT IS WHERE I THINK WE
19 WILL FACE SOME HUGE CHALLENGES BECAUSE WHETHER IT IS-- (CELL
20 PHONE RINGING)

21

22 **COUNCILMEMBER SILVERMAN:** OH, WELL THERE IS A REVENUE SOURCE! I
23 THINK, IF WE CAN'T DO IT IN THEATERS, WE OUGHT TO AT LEAST DO
24 IT HERE. THAT IS RIGHT. THROW ANOTHER GRANT IN THE KITTY THERE,
25 MR. DENIS. [LAUGHTER]

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1

2 **COUNCILMEMBER PRAISNER:** YOU'RE GOING TO KEEP IT RINGING UNTIL
3 WE PASS YOUR BILL.

4

5 **COUNCILMEMBER SILVERMAN:** I MEAN, THE EASY POINT IS WE CAN ALL
6 LOOK THROUGH, AND I THINK YOU STARTED OUT THIS WAY, MR. FARBER,
7 WHICH IS WE ALL LIKE PIECES OF, EVEN IF WE DON'T LIKE THE
8 AGGREGATE AMOUNT OF THE BUDGET. WHETHER YOU WANT MORE COPS ON
9 THE STREETS, OR WHERE YOU WANT TO HAVE THE HOUSING INITIATIVE
10 FUND UP ANOTHER \$4 MILLION, OR WHETHER YOU WANT TO HAVE
11 SCHOOLS OR THROW MORE MONEY INTO PARK AND PLANNING, THAT IS
12 WHAT IS IN ALL THESE NEW INITIATIVES. WHEN WE START LOOKING AT
13 GETTING THE SCALPELS OUT, I THINK WE'RE GOING TO HAVE A HUGE
14 CHALLENGE SLICING AND DICING OUR WAY DOWN TO THE CHARTER LIMIT.
15 HAVING SAID THAT, I HAPPEN TO BELIEVE THAT WE SHOULD MAKE A
16 GOOD FAITH EFFORT TO TRY TO IDENTIFY PLACES TO CUT IN THE
17 COUNTY EXECUTIVE'S BUDGET. I'M PREPARED TO SUPPORT THAT EFFORT
18 AT SOME LEVEL NEXT WEEK, WHEN WE GET TO SPENDING AFFORDABILITY.
19 I JUST, IN REVIEWING THE BUDGET AS A WHOLE, DO NOT SEE THE
20 POINT IN SETTING A SPENDING AFFORDABILITY NUMBER PREDICATED ON
21 REACHING THE CHARTER LIMIT, ASSUMING THAT WE'RE GOING TO BE
22 ABLE TO FIND A WAY TO CUT \$62 MILLION OUT OF THIS COUNTY
23 EXECUTIVE'S BUDGET. BECAUSE, IN REALITY, YOU'RE THROWING IN
24 \$12 MILLION FOR STARTERS FROM THE SCHOOL SYSTEM ON TOP OF THAT.
25 I'LL MENTION ONE OTHER THING THAT I THINK WE OUGHT TO- WE WILL

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1 TAKE A LOOK AT IN THE END GAME OF BUDGET, WHICH IS REGARDLESS
2 OF HOW WE APPROACH PROPERTY TAX RELIEF. I WOULD LIKE TO SEE
3 GREATER PROPERTY TAX RELIEF THAN THE COUNTY EXECUTIVE HAS
4 PROPOSED. WE HAVE BEEN GIVEN A TREMENDOUS TOOL YESTERDAY, THAT
5 GOT SORT OF LOST IN SPACE BECAUSE IT'S A MINOR MATTER IN THE
6 GRAND SCHEME OF WHAT THEY WERE FIGHTING OVER IN ANNAPOLIS. THE
7 PASSAGE OF HOUSE BILL 1015 PROVIDES COMPLETE DISCRETION FOR
8 LOCAL JURISDICTIONS TO PROVIDE TARGETED PROPERTY TAX RELIEF.
9 IT TAKES OFF THE \$150,000- EXCUSE ME, THE \$200,000 RESTRICTION
10 IN TERMS OF NON- PROPERTY ASSETS, AND ALLOWS US TO FIX THAT AT
11 ANY DOLLAR AMOUNT WE WANT. IT ALLOWS US TO PROVIDE AGE
12 RESTRICTIONS, IF WE CHOSE TO CREATE A SENIOR CITIZEN TARGETED
13 PROPERTY TAX RELIEF. IT GIVES US COMPLETE FLEXIBILITY,
14 OBVIOUSLY, ON INCOME AND ON WHAT THE- HOW IT WILL BE APPLIED
15 TO THE VALUE OF THE HOUSE. SO, WE HAVE A TREMENDOUS AMOUNT OF
16 TOOLS IN THE ARSENAL THAT WE DIDN'T HAVE LITERALLY A COUPLE OF
17 DAYS AGO. I'M GOING-- YOU ARE SAYING "IF HE SIGNS IT." YOU
18 KNOW, WE WOULD HOPE THAT THAT WOULD NOT BE A PARTICULARLY
19 CONTROVERSIAL PIECE OF LEGISLATION IN THE VETO MIX THAT THE
20 GOVERNOR MAY HAVE. BUT I HAD INTRODUCED LAST YEAR, AND DID NOT
21 PUSH DURING OUR BUDGET PROCESS LAST YEAR, A TARGETED PROPERTY
22 TAX RELIEF INITIATIVE. I INTEND TO LOOK AT REVISIONS IN THAT
23 IN LIGHT OF THE NEW LEGISLATION AND WOULD HOPE THAT, IF WE'RE
24 GOING TO BE MOVING IN THE DIRECTION OF ADDITIONAL PROPERTY TAX
25 RELIEF, THAT WE WOULD FIND A WAY TO PROVIDE AT LEAST SOME

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1 PROPERTY TAX RELIEF ON A TARGETED BASIS FOR THOSE THAT WE HAVE
2 TALKED ABOUT, ARE IN NEED AS A RESULT OF THEM BEING HOUSE-RICH
3 AND CASH-POOR. SO WE WILL HAVE OPPORTUNITIES TO TALK ABOUT ALL
4 THESE THINGS IN THE SPRING. THANKS VERY MUCH.

5

6 **STEVE FARBER:** ONE POINT, MR. SILVERMAN. THE EXECUTIVE, AS YOU
7 KNOW, SAID THAT HE WOULD LIKE TO WORK WITH COUNCIL ON TARGETED
8 PROPERTY TAX RELIEF, BUT ALSO SAID THAT THAT WOULD HAVE TO
9 COME FROM THE \$24 MILLION OR TWO CENTS HE'S ALLOCATED. AS I
10 POINT OUT IN THE PACKET, IF HYPOTHETICALLY YOU HAD A \$6
11 MILLION TARGETED RELIEF PROGRAM, THEN WHAT THAT WOULD MEAN IS
12 THAT, INSTEAD OF 2 CENTS OF GENERAL RATE RELIEF YOU'D HAVE 1.5
13 UNDER THE EXECUTIVE'S FORMULATION. THAT DOESN'T MEAN THE
14 COUNCIL'S FORMULATION, BUT THAT'S THE EXECUTIVE'S FORMULATION.

15

16 **COUNCILMEMBER SILVERMAN:** WELL, THAT IS WHY WE GET THE LAST
17 WORD, FORTUNATELY. I WOULD HOPE THAT, WHILE I UNDERSTAND THERE
18 IS A FAIR AMOUNT OF SENTIMENT FOR ACROSS THE BOARD PROPERTY
19 TAX RELIEF, THAT IF WE DECIDE TO MOVE IN THE DIRECTION OF
20 ADDITIONAL PROPERTY TAX RELIEF, I WOULD HOPE WE'D BE ABLE TO
21 FIND A WAY TO MIX THE TWO SINCE WE ARE ALREADY STARTING OFF AT
22 A CERTAIN PLACE THAT THE COUNTY EXECUTIVE HAS PROPOSED. WE
23 HAVE, DESPITE BEST EFFORTS AND LETTERS WITH SIGNATURES ON THEM
24 AND OTHER EFFORTS TO GET THE WORD OUT ABOUT OUR CIRCUIT
25 BREAKER, THE BUMP-UP IN TERMS OF THE NUMBER OF HOUSEHOLDS,

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1 NUMBER OF TAXPAYERS TAKING ADVANTAGE OF THAT CIRCUIT BREAKER
2 SYSTEM REALLY WAS MARGINAL. IN TERMS OF REAL DOLLARS, IT WAS
3 TRULY MARGINAL. WHY THAT IS THE CASE, WE CAN HAVE A LOT OF
4 CONJECTURE. I SUSPECT PART OF IT IS BECAUSE, WHEN THE AVERAGE
5 TAX RELIEF IS LESS THAN \$200 A HOUSEHOLD, THE QUESTION IS
6 WHETHER OR NOT PEOPLE A, ARE AWARE OF IT AND B, THINK THAT IT
7 IS WORTH GOING THROUGH THE PAPERWORK IN ORDER TO DO THAT. IF
8 WE FIND A WAY TO BUMP THE NUMBERS UP TO A HIGHER LEVEL ON
9 AVERAGE, THEN THAT MAY BE A SIGNIFICANT INCENTIVE AND PROVIDE
10 REAL TAX RELIEF TO FOLKS.

11
12 **STEVE FARBER:** I THINK YOU ARE RIGHT, MR. SILVERMAN. I BELIEVE
13 WE ONLY HAD 2,500 WHO QUALIFIED FOR THE COUNTY CIRCUIT BREAKER
14 THIS YEAR. AND PART OF THE REASON, I THINK, FOR--

15
16 **COUNCILMEMBER PEREZ:** 90%, I THINK, WERE TURNED DOWN.

17
18 **STEVE FARBER:** NOT TO BE ELIGIBLE?

19
20 **COUNCILMEMBER PEREZ:** NO, THEY WERE TURNED OFF. MS. PRAISNER?

21
22 **COUNCILMEMBER PRAISNER:** I WANTED TO ADD MY THANKS, AND ALSO
23 SUGGEST, TO THE EXTENT FOLKS ARE INTERESTED IN ADDITIONAL
24 SCENARIOS IN THE FISCAL PLAN, THEY SHOULD LET US KNOW BECAUSE
25 O.M.B. HAS BEEN EXTREMELY COOPERATIVE IN HELPING US RUN

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1 DIFFERENT REQUESTS WHICH THE M.F.P. COMMITTEE HAS ASKED FOR.
2 THE SCENARIOS ARE ONLY AS GOOD AS THE SUSTAINABILITY OF THE
3 ASSUMPTIONS, MEANING DO WE REALLY FOLLOW THROUGH. WHAT I'D
4 LIKE TO HAVE SOME DISCUSSION ABOUT IN M.F.P. IS THE EXTENT TO
5 WHICH PREVIOUS FISCAL PLANS HAVE SHOWN THEMSELVES TO BE THE
6 REALITY ONCE WE GET TO THOSE YEARS. SO THE ASSUMPTIONS FROM,
7 SAY, FOUR YEARS AGO FOR THIS FISCAL YEAR, HOW CLOSE TO REALITY
8 WERE THOSE IN OUR FISCAL PLAN DOCUMENTS THAT WE RECEIVED FOUR
9 YEARS AGO?

10

11 **STEVE FARBER:** I ACTUALLY DID THAT A COUPLE OF YEARS AGO, MRS.
12 PRAISNER.

13

14 **COUNCILMEMBER PRAISNER:** YEAH, I KNOW. I'D LIKE TO DO IT AGAIN.

15

16 **STEVE FARBER:** WE CAN UPDATE THAT.

17

18 **COUNCILMEMBER PRAISNER:** YEAH, BECAUSE HANGING ONE'S HAT ON A
19 DOCUMENT WHICH TURNS OUT NOT TO BE ANYWHERE NOT CLOSE TO
20 REALITY AS FAR AS WHAT GAPS SHOW OR DON'T SHOW IS HELPFUL, BUT
21 NOT AS HELPFUL AS STICKING TO SOMETHING THAT THEN WOULD COME
22 TRUE WHEN WE ACTUALLY TAKE OUR VOTES. THE OTHER COMMENT I
23 WOULD MAKE IS ON THE PROPERTY TAX RELIEF. I THINK THE QUESTION
24 OF WHETHER THE LEGISLATION IS SIGNED INTO LAW IS CERTAINLY-- I
25 HAVEN'T HEARD SPECULATION ONE WAY OR THE OTHER, BUT I'M NOT

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1 BETTING ON ANYTHING AT THIS POINT, UNTIL IT'S ACTUALLY SIGNED.
2 BUT I WONDER WHEN IT WOULD BE APPLICABLE, AND I DON'T REMEMBER,
3 WITH THE LEGISLATION, TO WHAT FISCAL YEAR AND WHAT PROPERTY
4 TAX BILL WOULD IT APPLY THEN. IS IT AN EMERGENCY? IS IT
5 EMERGENCY LEGISLATION? OTHERWISE, IT WOULD GO IN EFFECT
6 OCTOBER.

7

8 **COUNCILMEMBER SILVERMAN:** IT SPECIFIES JULY 1ST.

9

10 **COUNCILMEMBER PRAISNER:** SO IT GOES INTO PLAY ON JULY 1ST. OKAY,
11 I WASN'T SURE ABOUT THAT. THE OTHER POINT, OF COURSE, IS THE
12 ONE THAT THE COUNTY EXECUTIVE MAKES IN HIS RELIEF. THE MORE
13 YOU TARGET, HE'S SUGGESTING, THE LESS YOU HAVE ACROSS THE
14 BOARD. WHILE I APPRECIATE VERY MUCH THE IMPACT ON THOSE ON
15 FIXED INCOME AND SENIORS, AND CERTAINLY WE CAN TAILOR CERTAIN
16 THINGS OR LOOK AT THOSE THINGS AND THOSE AT CERTAIN INCOME
17 LEVELS, WHAT I'M HEARING IS A UNIVERSAL CONCERN ABOUT THE
18 PROPERTY TAX INCREASES AND ITS IMPACT ON MIDDLE-CLASS
19 MONTGOMERY COUNTY, NO MATTER WHAT THOSE AGES, ARE IN
20 CUMULATION WITH OTHER THINGS FOLKS ARE SEEING INCLUDING FEE
21 INCREASES AND OTHER INCREASES. SO, ALTHOUGH ARVA, I THINK,
22 LAST NIGHT WAS PROBABLY SPEAKING FROM AND WOULD HAVE NO
23 DISAGREEMENT WITH ME CATEGORIZING HER IN A CERTAIN CATEGORY,
24 MAYBE AS A SENIOR CITIZEN CATEGORY. I THINK SHE WAS SAYING
25 VERY POIGNANT AND POINTED THINGS ABOUT THE IMPACT FOR EVERYONE

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1 OF STARTING TO WRITE THOSE CHECKS FOR ALL OF THE BILLS. AND I
2 DON'T THINK YOU HAVE TO BE ON THE LOW END OF THE INCOME LEVEL
3 OR ON A FIXED INCOME TO HAVE THAT SIGNIFICANT IMPACT HITTING
4 HOME. AND SO I DO THINK THAT THE EXECUTIVES' CONCERN ACROSS
5 THE BOARD ON PROPERTY TAX-- ALTHOUGH I WOULD LIKE TO GET TO A
6 LEVEL MORE THAN THE EXECUTIVE IS, WHERE I'M FOCUSED AT THIS
7 POINT PRIMARILY. BUT THE COMMITTEE WILL BE CONSIDERING THE TAX
8 CREDIT ISSUE. THE COMMITTEE WILL ALSO AT SOME POINT HAVE TO
9 CONSIDER WHAT IS THE APPROPRIATE PERCENTAGE CAP. THERE IS NO
10 REASON WHY WE HAVE TO STAY AT 10% FOR AN ASSESSMENT INCREASE
11 IN THE FUTURE. OTHER JURISDICTIONS HAVE BEEN MOVING LOWER ON
12 THAT PERCENTAGE, AND THE PACKET, I THINK, DEMONSTRATES IN I
13 DON'T REMEMBER WHAT CIRCLE--

14
15 **STEVE FARBER:** CIRCLE 50.

16
17 **COUNCILMEMBER PRAISNER:** THAT THERE ARE QUITE A FEW
18 JURISDICTIONS THAT ARE IN SINGLE DIGITS AND NOT IN THE DOUBLE
19 DIGITS OF 10%.

20
21 **COUNCILMEMBER PEREZ:** DO WE HAVE THAT DISCRETION?

22
23 **COUNCILMEMBER PRAISNER:** WE HAVE THAT DISCRETION. WE CAN'T GO
24 ANY HIGHER THAN 10%, BUT WE CAN CERTAINLY GO LOWER. ONE WAY TO
25 AFFECT THAT CERTAINLY WOULDN'T AFFECT ASSESSMENTS THAT WE ARE

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1 TALKING ABOUT NOW, BUT CAN AFFECT FUTURE ASSESSMENT AND THE
2 TAX INCREASE ON THOSE. I THINK THERE IS A LOT OF FOOD FOR
3 THOUGHT. THE PERCENTAGE INCREASES FOR THE SCHOOL SYSTEM OR ANY
4 AGENCY ARE-- I THINK WE NEED TO MAKE SURE THAT, WHEN WE LOOK
5 AT THOSE OR LOOK AT ANY OF THESE PIECES, THAT WE LOOK AT
6 APPLES TO APPLES AND UNDERSTAND THE DEFINITIONS, AS I THINK MS.
7 FLOREEN WAS TALKING ABOUT WITH WHICH BUDGETS ARE WE REFERRING
8 TO. AND THE OTHER QUESTION, OF COURSE, YEARS AGO I DID SOME
9 WORK IN LOOKING AT OTHER COUNTIES AND HOW THEY FUND AND WHERE
10 THEY FUND CERTAIN CATEGORIES. SO I'M GLAD TO SEE THAT WE
11 HAVEN'T STARTED TALKING ABOUT COMPARING DIFFERENT
12 JURISDICTIONS, BECAUSE MANY JURISDICTIONS CARRY DIFFERENT
13 COMPONENTS OF THE BUDGET IN DIFFERENT CATEGORIES, SUCH, FOR
14 EXAMPLE CROSSING GUARDS APPEAR IN SCHOOL SYSTEM BUDGETS, NOT
15 IN POLICE BUDGETS, OR DEBT SERVICE COULD BE ATTRIBUTED TO
16 EDUCATION, NOT TO THE GENERAL FUND, GENERAL GOVERNMENT. SO,
17 OTHER COUNTIES DO THINGS DIFFERENTLY, SO I'M GLAD WE ARE NOT
18 COMPARING OURSELVES TO OTHER JURISDICTIONS. I THINK WE NEED TO
19 KEEP LOOKING AT OUR APPLES COMPARED TO PREVIOUS YEARS AND NOT
20 TO TRY AND COMPARE AGAINST OTHER JURISDICTIONS. CAN WE HAVE A
21 DOCUMENT FOR THE DISCUSSIONS ON PERSONNEL THAT BREAKS OUT THE
22 COMPONENTS THAT FOLKS WERE TALKING ABOUT EARLIER WITH THE
23 GROUP INSURANCE PERCENTAGE INCREASES? WILL WE HAVE IT
24 SEPARATED OUT - RETIREMENT, HEALTH INSURANCE? AND WILL WE BE
25 ABLE TO LOOK AT IMPROVEMENTS IN THE, IN ESSENCE, COLLECTIVE

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1 BARGAINING AGREEMENTS VERSUS COSTS THAT ARE ASSOCIATED WITH
2 ACTUARIAL OR OTHER CALCULATIONS?

3

4 **STEVE FARBER:** YES, WE HAVE THAT INFORMATION IN THE--

5

6 **COUNCILMEMBER PRAISNER:** IN THE TOTAL COMPENSATION PACKETS? THE
7 OTHER QUESTION I HAD IS RELATED TO GASB 34. REMIND ME THE YEAR
8 WHEN WE'RE GOING TO HAVE TO START SHOWING EXPOSURE? IS THAT FY
9 '08 OR '07.

10

11 **STEVE FARBER:** THEY'VE RENAMED IT GASB 43-45.

12

13 **COUNCILMEMBER PRAISNER:** 43? OH, I'M SORRY. WELL, WHATEVER.

14

15 **STEVE FARBER:** THEY CHANGED ON US. BUT BASICALLY, IT FIRST HAS
16 TO BE SHOWN IN FISCAL '08 FINANCIAL STATEMENTS.

17

18 **COUNCILMEMBER PRAISNER:** '08, OKAY. SO, DOES THE-- THE FISCAL
19 PLAN DOESN'T SHOW THAT EXPOSURE IN PROJECTING FUTURE FISCAL
20 PLANS, DOES IT? FISCAL YEARS? DOES IT?

21

22 **STEVE FARBER:** YES, IT DOES.

23

24 **COUNCILMEMBER PRAISNER:** OKAY. AND THAT'S BUILT ON CURRENT
25 CURRENT BENEFITS, AND CURRENT RETIREMENT BENEFITS. IS IT BUILT

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1 ON THE CHANGES WE HAVE IN COLLECTIVE BARGAINING THIS YEAR, OR
2 IS IT BUILT ON FUTURE EXPOSURE COSTS?

3

4 **STEVE FARBER:** THOSE CHANGES WOULDN'T AFFECT RETIREE HEALTH
5 INSURANCE.

6

7 **COUNCILMEMBER PRAISNER:** RIGHT. OKAY. WELL, THAT IS RIGHT. IT'S
8 ONLY RETIREMENT.

9

10 **STEVE FARBER:** IT'S ONLY PENSION RETIREMENT.

11

12 **COUNCILMEMBER PRAISNER:** OKAY, GOOD. THANK YOU.

13

14 **COUNCILMEMBER PEREZ:** MR. KNAPP?

15

16 **COUNCILMEMBER KNAPP:** THANK YOU. I REALIZE IT IS LATE, SO I
17 WILL BE QUICK. GOOD WORK, STEVE. THANK YOU VERY MUCH,
18 APPRECIATE IT. AFTER NOW HAVING-- I GUESS THIS WHAT, OUR THIRD
19 BUDGET? IT'S, IN MY MIND, AN AWFUL LOT LIKE THE MOVIE "THE
20 MATRIX" WHERE INITIALLY, IN THE BEGINNING OF THE MOVIE,
21 EVERYTHING KIND OF LOOKS APPROPRIATE. AND THEN, AS YOU LEARN A
22 LITTLE MORE AND YOU UNDERSTAND OR GROW, OR DO WHATEVER IT IS
23 IN THE MOVIE, ALL OF A SUDDEN YOU RECOGNIZE THAT EVERYTHING IS
24 THE LITTLE ZEROES AND ONES, AND IT'S NOT ALL THAT IT APPEARED

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1 TO BE. I'M FINDING THAT THAT'S WHAT THE BUDGETING PROCESS IS.
2 THE MORE I LEARN, IT'S NOT NECESSARILY WHAT IT APPEARS TO BE.

3

4 **COUNCILMEMBER LEVENTHAL:** I THOUGHT YOU WERE GOING TO SAY IT IS
5 LIKE "GROUNDHOG DAY". [LAUGHTER]

6

7 **COUNCILMEMBER KNAPP:** IT MAY BE THAT, TOO. THERE YOU GO. I ALSO
8 WANTED TO THANK STEVE AND EVERYBODY ELSE FOR THE DIALOGUES WE
9 HAD WITH EVERYBODY DURING THE BUDGET HEARINGS, BECAUSE YOU CAN
10 SEE THE INTEREST WE GENERATE IN THE COURSE OF THIS DISCUSSION
11 TODAY.

12

13 **COUNCILMEMBER LEVENTHAL:** THE DIE-HARDS ARE HERE.

14

15 **COUNCILMEMBER KNAPP:** I THOUGHT WE WERE GOING TO LOSE CHUCK, WE
16 WERE GOING TO LOSE OUR OWN STAFF, THERE FOR A MINUTE. BUT
17 ANYWAY, I JUST- I HAD A COUPLE OF QUICK QUESTIONS. ONE, TO
18 FOLLOW ON WHAT STEVE SILVERMAN HAD SAID, HE WANTED TO GET KIND
19 OF THE PIE CHART OF WHAT PERCENTAGE OF OUR OVERALL REVENUE HAS
20 BEEN PROPERTY TAX OVER THE LAST TEN YEARS. COULD WE ALSO GET
21 THE REST OF SOURCES OF REVENUE, JUST TO KIND OF SEE? I DIDN'T
22 KNOW IF THAT WAS CLEAR. BUT JUST TO KIND OF SEE THAT LEVEL OF
23 VARIABILITY, AND TO THE EXTENT THAT-- IT WOULD BE HELPFUL IF
24 WE COULD SEE KIND OF THE TRENDING A LITTLE BIT, IF IT WAS
25 CAPITAL GAINS OR IF IT WAS SOMETHING ALTOGETHER DIFFERENT. IN

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1 THE EXECUTIVE'S BUDGET, I BELIEVE HE HAD IDENTIFIED AN
2 ADDITIONAL \$27 MILLION IN SUPPLEMENTAL APPROPRIATIONS YET TO
3 BE ACTED UPON, RIGHT? THAT IS THE WAY I READ IT. IT IS AN
4 ADDITIONAL 27, OR IS IT-- RIGHT NOW WE'RE AT, I THINK, 17, OR
5 10 THAT HAD COME OVER THUS FAR, OR 13. AND SO, ARE WE
6 EXPECTING AN ADDITIONAL \$14 MILLION, OR AN ADDITIONAL \$27
7 MILLION BETWEEN NOW AND THE END OF THE FISCAL YEAR?

8

9 **STEVE FARBER:** WELL, THE LIST WE HAVE IS OF PENDING AND
10 POTENTIAL SUPPLEMENTALS IN FISCAL YEAR '05. AND AS A MATTER OF
11 FACT, WE JUST RECEIVED SEVERAL OF THEM TODAY.

12

13 **COUNCILMEMBER KNAPP:** THAT WAS GOING TO BE MY NEXT QUESTION. WE
14 GOT ABOUT \$10 MILLION THAT CAME IN TODAY.

15

16 **STEVE FARBER:** RIGHT, AND O.M.B. HAS ALWAYS BEEN VERY CAREFUL
17 ABOUT MAKING SURE TO MAKE ROOM FOR AND TO TAKE ACCOUNT OF ALL
18 OF THESE. THEY HAVE ALWAYS HISTORICALLY DONE A VERY GREAT JOB
19 OF THAT, AND SO WE ARE NOT GOING TO SEE SURPRISES IN THAT
20 REGARD. I DO HAVE A LIST WHICH WE MAY HAVE DISTRIBUTED EARLIER,
21 BUT I'LL GET IT AROUND AGAIN, FROM O.M.B. OF THE PENDING AND
22 POTENTIAL SUPPLEMENTALS. AND THE TOTAL FOR THEM IS, AS YOU
23 SAID, \$27 MILLION.

24

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1 **COUNCILMEMBER KNAPP:** SO \$27 MILLION IN ADDITION TO WHAT WE
2 HAVE ALREADY DONE, OR \$27 MILLION TOTAL?

3

4 **STEVE FARBER:** NO, I THINK THESE WERE PENDING AND POTENTIAL SO
5 THEY ARE ABOVE AND BEYOND WHAT I BELIEVE HAS ALREADY BEEN
6 APPROVED BY THE COUNCIL. I THINK WE HAVE DONE ABOUT \$16 TO
7 DATE.

8

9 **COUNCILMEMBER KNAPP:** OKAY. SO I WAS GOING TO SAY, THERE COULD
10 BE POTENTIALLY, DEPENDING UPON HOW WE DISPOSED OF THOSE
11 SUPPLEMENTALS, COULD GIVE US SOME FLEXIBILITY IN HOW WE WANT
12 TO LOOK AT BUDGET GOING FORWARD.

13

14 **BERYL FEINBERG:** MR. KNAPP, IF I MAY. THE SUPPLEMENTALS THAT
15 YOU RECEIVED TODAY, WE HAD GIVEN NOTIFICATION TO YOU ALL, POST
16 MARCH 15TH THEY WOULD BE COMING BEFORE THEY CAME OVER. THEY
17 WERE POLICE, CORRECTIONS, MONTGOMERY COUNTY GOVERNMENT,
18 UTILITIES AND MASS TRANSIT. THOSE ARE THINGS BASED ON OUR
19 SECOND QUARTERLY ANALYSIS, SO IT IS OUR BELIEF THAT THIS WOULD
20 BE A PRUDENT THING TO DO. WE HAVE KNOWN THAT THESE
21 EXPENDITURES ARE GOING TO OCCUR. SPECIFICALLY THE POLICE AND
22 CORRECTIONS HAVE BEEN DRIVEN, AND THERE HAVE BEEN BRIEFINGS
23 FOR THINGS SUCH AS MEDICAL EXPENSES AND CORRECTIONS THAT THEY
24 HAVE NO CONTROL OVER. AND THERE HAVE BEEN MANY OVERTIME
25 CONVERSATIONS IN PUBLIC SAFETY COMMITTEE FOR POLICE AND FOR

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1 CORRECTIONS. ONE OF THE OTHER ONES THAT WOULD BE COMING OVER,
2 WHICH TRADITIONALLY COMES OVER IN LATE APRIL OR EARLY MAY
3 WOULD BE THE, WHAT WE CALL SNOW SUPPLEMENTAL, AND THAT'S
4 ANOTHER PIECE OF THAT. YOU DON'T HAVE THAT. I WAS CHECKING ON
5 THAT AS RECENTLY AS TODAY. WE ARE STILL TRYING TO GET THOSE
6 LATEST NUMBERS. THE VENDORS HAVE 30 DAYS TO SUBMIT THEIR LAST
7 INVOICES, AND THE LAST SNOW AND WEATHER INCIDENT WAS JUST
8 ABOUT 30 DAYS AGO.

9

10 **STEVE FARBER:** BERYL, DO YOU HAVE A SENSE AS TO WHAT RANGE THE
11 SNOW SUPPLEMENTAL IS LIKELY TO BE THIS YEAR?

12

13 **BERYL FEINBERG:** THAT IS WHAT I'M SAYING. WE DON'T HAVE THE
14 FINAL INVOICES IN. AND SO WE HAVE AN ESTIMATE THAT I HAVE
15 TODAY, BUT THEY HAVE SAID-- IT IS REALLY NOT FINAL. THE OTHER
16 PART OF IT IS THAT, WHEN YOU DO THE SNOW SUPPLEMENTAL, THERE
17 WILL BE SOME WEATHER PROJECTIONS BECAUSE IT'S SNOW AND OTHER
18 WEATHER-RELATED INCIDENTS. IT COULD BE CLEANUP FROM OTHER
19 TYPES OF STORMS FOR MAY AND JUNE. WE WILL BE GETTING THAT TO
20 YOU, WE HOPE, IN THE NEXT WEEK TO TEN DAYS.

21

22 **STEVE FARBER:** THE REASON I THINK THIS IS IMPORTANT IS BECAUSE
23 I NOTICE, MR. KNAPP, WITH RESPECT TO YOUR QUESTION ABOUT THE
24 \$27 MILLION, THAT \$13 MILLION OF THAT \$27 MILLION IS FOR THE

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1 SNOW SUPPLEMENTAL FOR FY '05 AND OTHER EMERGENCIES. SO, THAT
2 IS LARGE PLUG NUMBER, \$13 MILLION. AND SO I THINK--

3

4 **COUNCILMEMBER KNAPP:** WE HAVEN'T HAD MANY EMERGENCIES YET THIS
5 YEAR.

6

7 **BERYL FEINBERG:** SNOW TRADITIONALLY IS UNDER-BUDGETED BECAUSE
8 YOU DO NOT KNOW WHAT YOU'RE GOING TO HAVE IN SNOW. SO
9 TRADITIONALLY, WE HAVE SENT THEM IN LIKE THE \$7 MILLION TO \$8
10 MILLION RANGE.

11

12 **STEVE FARBER:** RIGHT. MY POINT IS THAT THERE IS A \$13 MILLION
13 PLUG HERE, AND WE WILL WANT TO PARSE THAT SO THAT WE
14 UNDERSTAND IT AND WORK WITH YOU ON THAT, BERYL.

15

16 **COUNCILMEMBER KNAPP:** IN THE MEMO THAT THE COUNCIL PRESIDENT
17 HAD SENT AROUND, THERE WAS A COLUMN FOR EXEMPT ELEMENTS
18 ASSOCIATED WITH THE BUDGET. IT'S ON CIRCLE 59. I WAS JUST
19 CURIOUS AS TO WHAT FALLS INTO THAT EXEMPT COLUMN? SPEAKER:
20 [INAUDIBLE]

21

22 **COUNCILMEMBER KNAPP:** YEP.

23

24 **STEVE FARBER:** THAT IS A GOOD QUESTION, MR. KNAPP. BASICALLY
25 WHAT WE DID WAS TO USE THE METHODOLOGY THAT O.M.B. HAS

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1 HISTORICALLY USED FOR THE BUDGET SAVINGS PLANS THAT WE HAD IN
2 FISCAL YEARS '02, '03 AND '04, AND THE SPECIFICS OF THE
3 METHODOLOGY ARE SUMMARIZED ON CIRCLE 58. YES, IT'S AT THE TOP
4 OF CIRCLE 58, WHERE IT SAYS, "THE TARGET REDUCTION APPROACH IS
5 SIMILAR TO THE MID-YEAR SAVINGS PLANS OF '02 TO '04." THOSE
6 PLANS REQUIRED A FIXED REDUCTION IN ALL TAX-SUPPORTED BUDGETS
7 WITH EXEMPTIONS FOR REIMBURSEMENTS, MAINLY F.F.P., FEDERAL
8 FINANCIAL PARTICIPATION, AND HB669, WHICH IS THE STATE SOCIAL
9 SERVICES BILL, AND FOR FIXED COSTS AND NON-DEPARTMENTAL
10 ACCOUNTS THAT ARE NOT DISCRETIONARY. AND WHAT WE ALSO DID WAS
11 TO EXEMPT BUDGETS OF LESS THAN A MILLION DOLLARS. ANY
12 METHODOLOGY YOU USE FOR THIS PURPOSE IS GOING TO BE ARBITRARY
13 FROM ONE PERSPECTIVE OR ANOTHER. THIS WAS THE STANDARD
14 METHODOLOGY THAT O.M.B. HAS USED, AND WE CHOSE THAT AS THE
15 MOST SOLID BASIS FOR PROCEEDING WITH THESE REDUCTIONS.

16
17 **COUNCILMEMBER KNAPP:** THANKS. JUST A COUPLE OF COMMENTS, AND I
18 GUESS I WOULD ENCOURAGE US ALL-- AND I RECOGNIZE THIS A LITTLE
19 DIFFERENT, BUT TO THINK ABOUT HOW WE TALK ABOUT THE LANGUAGE
20 BECAUSE WE ALWAYS TALK ABOUT THIS AS THOUGH WE WERE CUTTING
21 \$62 MILLION. WE ARE TALKING ABOUT-- IT IS ALL NEW INITIATIVES.
22 BUT IT ASSUMES THAT EVERYTHING THAT WAS ALREADY IN OUR BUDGET
23 IS FINE AND GOOD. SO I'M NOT AWARE OF ANY PLACE THAT WE'VE
24 ACTUALLY ELIMINATED A PROGRAM IN ORDER TO MAKE ROOM FOR ANY
25 ADDITIONAL PROGRAMS. IS THERE ANY PLACE IN THIS YEAR'S BUDGET

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1 THAT WE'VE ACTUALLY DETERMINED A PROGRAM WASN'T WORKING, AND
2 SO WE HAVE COME UP WITH A NEW INITIATIVE?

3

4 **BERYL FEINBERG:** MR. KNAPP, I THINK I CANNOT RECOLLECT OF ANY
5 WHOLESALE PROGRAM THAT WE HAVE CUT. WHAT WE HAVE FURNISHED
6 HAVE BEEN OUR TRADITIONAL REPORTS, THE ELIMINATION OF ONE-TIME
7 ONLY ITEMS, BUT THAT IS A SHADE DIFFERENT. BUT WE HAVEN'T--

8

9 **COUNCILMEMBER KNAPP:** SO, I THINK THAT IS AN IMPORTANT THING
10 FOR US TO RECOGNIZE AS WELL, THE NOTION THAT, IF WE THINK
11 SOMETHING IS IMPORTANT AND OF SIGNIFICANCE AND A PRIORITY,
12 THEN MAYBE IT SUPPLANTS SOMETHING ELSE THAT HAS OUT-LASTED
13 TIMELINESS OR IS SOMEWHAT LESS OF A PRIORITY, THAT THERE MAY
14 BE A ONE-FOR-ONE TRANSFER. I RECOGNIZE IT'S PROBABLY AN
15 ANATHEMA TO SUGGEST SUCH THINGS, BUT I THINK IT'S SOMETHING WE
16 MAY NEED TO BEGIN TO TO CONSIDER. I THINK THAT MR. ANDREWS
17 REFERENCED THIS AT THE OUTSET. IT'S THE NOTION THAT WE ARE
18 STILL LOOKING AT \$185 MILLION INCREASE, NOT NECESSARILY A
19 CUTTING OF \$62 MILLION. I WOULD RESPECTFULLY SUGGEST THAT, AS
20 WE MOVE THIS DEBATE FORWARD THROUGH OUR CONSIDERATION AND
21 DELIBERATION, THAT WE COME UP WITH- USE THE CHARTER LIMIT FOR
22 SOME ELEMENT OF DOWNWARD PRESSURE TO SEE HOW CLOSE WE CAN GET
23 TO MEETING AND ACHIEVING THAT GOAL. NOW, WE MAY NOT GET THERE,
24 BUT LET'S AT LEAST USE THAT AS A STARTING POINT, AS OPPOSED TO
25 STARTING \$62 MILLION ABOVE AND TRYING TO ELIMINATE ALL OF

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1 THOSE VARIOUS PROGRAMS. I THINK, IF WE WERE TO ACTUALLY
2 IDENTIFY SOME LIMIT AT THE OUTSET, WE WOULD BE FORCED TO,
3 THROUGH EACH OF OUR COMMITTEES AND AGENCIES, TO DETERMINE
4 THOSE THINGS THAT ARE MUST-HAVES AS OPPOSED TO THOSE THINGS
5 THAT WE CAN KIND OF LIVE WITHOUT. I THINK THAT'S A DIFFERENT
6 PERSPECTIVE. MY CONCERN IS, AND THE TROUBLE I HAVE WITH THIS
7 BUDGET, AND IT'S SOMETHING I HAVE SEEN OVER THE LAST TWO AND A
8 HALF YEARS NOW, IS THAT WE DO THINGS PARTWAY. WE FUND LOTS OF
9 THINGS WITH LITTLE BIT, AS OPPOSED TO ACTUALLY REALLY TAKING A
10 FOCUS ON WHAT DO WE WANT TO DO WELL AND MAKE SURE WE HIT THE
11 BALL OUT OF THE PARK. AND I THINK THAT IS A REAL CHALLENGE.
12 AND I THINK THAT THE INFRASTRUCTURE REPORT WE RECEIVED THAT
13 THE COUNCIL PRESIDENT AND MRS. PRAISNER PUT TOGETHER IS VERY
14 INDICATIVE OF THAT, THAT THAT WE HAVE DONE ENOUGH TO MAKE SURE
15 THINGS AREN'T FALLING DOWN, BUT THAT WE'RE FAST REACHING A
16 POINT WHERE THINGS ARE GOING TO BEGIN TO CRUMBLE. I THINK YOU
17 ARE HEARING THAT FROM COUNTY RESIDENTS, THAT THERE IS A
18 FRUSTRATION. YOU HEARD IT FROM THE LIBRARY. "GIVE US RESOURCES
19 TO DO THE JOB. DON'T GIVE US A LITTLE BIT." YOU SEE THE
20 PERCENTAGE OF PEOPLE PARTICIPATING DECLINING AT MARGINAL LEVEL,
21 AND YOU CONTINUE TO SEE THIS DOWNWARD TREND. I THINK THAT'S
22 THE RISK WE RUN. I WOULD ENCOURAGE US TO REALLY IDENTIFY THOSE
23 THINGS WE WANT TO DO, DO THEM WELL, AND THEN MOVE ON TO THE
24 NEXT PROJECT AS OPPOSED TO FUND EVERYTHING A LITTLE BIT, WHICH
25 I THINK IS WHAT THIS BUDGET RIGHT NOW, IN FRONT OF US, DOES. I

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1 DON'T THINK THAT, AT THE END OF THE DAY, WE'RE ULTIMATELY
2 GOING TO BE SUCCESSFUL. THAT WAS THE NOTION, I THINK, FOR
3 IDENTIFYING A MECHANISM FOR BEING ABLE TO IDENTIFY PRIORITIES,
4 BUT PERFORMANCE FOR THE PERFORMANCE OBJECTIVES, TO SEE WHAT
5 ARE WE DOING, HOW IT IS WORKING, SO WE CAN THEN BEGIN TO
6 REALLY GO BACK TO PEOPLE AND SAY, "THIS IS WHY WE ARE FUNDING
7 THIS, AND THIS IS WHY WE NEED TO PROVIDE ADDITIONAL
8 RESOURCES." BECAUSE RIGHT NOW EVERYTHING IS GOING OKAY. AND I
9 THINK WE HAVE HEARD FROM A LOT OF FOLKS WITH A LOT OF VERY
10 GOOD IDEAS, BUT WE'RE GOING TO NEED TO REALLY FUNNEL THAT INTO
11 WHAT IS ACCOMPLISHABLE, WHAT'S ACHIEVABLE, AND WHAT'S
12 SUSTAINABLE. SO, I APPRECIATE THAT. THE OTHER THING I WOULD
13 ASK, STEVE, COULD YOU GET US, AND I KNOW IT IS IN HERE BUT
14 IT'S NOT IN A SPREADSHEET, THE PERCENT INCREASE OF THE VARIOUS
15 AGENCIES AND DEPARTMENTS, AND THEN WHAT PERCENT OF THAT TOTAL
16 INCREASE IS PERSONNEL COSTS? DOES THAT MAKE SENSE?

17

18 **STEVE FARBER:** YES, I THINK WE CAN BREAK THAT OUT.

19

20 **COUNCILMEMBER KNAPP:** BECAUSE, YOU KNOW, WE HAVE SAID THAT
21 PERSONNEL IS SUCH SIGNIFICANT COMPONENT. SO WHAT PERCENT OF
22 THE OVERALL GROWTH WE'RE SEEING IN EACH OF THOSE DEPARTMENTS
23 IS ARE PURELY ATTRIBUTABLE TO THAT. ALL RIGHT, I'M DONE.

24

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1 **COUNCILMEMBER LEVENTHAL:** OKAY, JUST A COUPLE OF QUICK
2 QUESTIONS ABOUT TAX RELIEF. WHEN I AM OUT IN THE COMMUNITY, I
3 GET A LOT OF SUGGESTIONS AS TO HOW TO BEST DO TAX RELIEF.
4 FOLLOWING UP ON MR. SILVERMAN'S POINT, I'D LIKE, AND I DON'T
5 HAVE TO GET IT NOW, I'D LIKE INFORMATION ABOUT WHAT
6 FLEXIBILITY DO WE HAVE TO TARGET TAX RELIEF OURSELVES.
7 SPECIFICALLY, I'D LIKE STAFF'S REACTION TO A PROPOSAL WHEREBY
8 EITHER ALL CITIZENS OR ELDERLY COULD OPT TO DEFER PAYMENT OF
9 PROPERTY TAX UNTIL THE SALE OF THE HOME. DO WE HAVE THE LEGAL
10 AUTHORITY TO DO THAT, A? WHAT DO WE THINK WOULD BE THE REVENUE
11 IMPACT, B? JUST, I'D LIKE REACTION TO THAT PROPOSAL. I HAVE
12 HEARD IT IN MULTIPLE SETTINGS WHEN I'M OUT IN THE COMMUNITY.
13 AND THEN, I GUESS JUST SORT OF A GENERAL PRIMER ON HOW ARE WE
14 LINKED TO THE STATE IN TERM OF WHAT STATE LAW DOES FOR
15 PROPERTY TAX AND WHAT WE CAN DO IF WE ARE STRUCTURING
16 PARTICULAR TYPES OF RELIEF BY INCOME OR, ALTHOUGH I'M LESS
17 FRIENDLY TO THIS IDEA, BY AGE. THE SORTS OF THINGS YOU HEAR
18 ABOUT, WHAT WE HAVE THE AUTHORITY, UNDER OUR CHARTER, TO DO,
19 OR ALL DONE UNDER STATE LAW? IF I COULD GET THAT TIMELY. IN
20 CASE I DECIDE TO PUT TOGETHER A PROPOSAL, THE DEADLINE FOR ANY
21 PROPOSAL WOULD BE TUESDAY, SO I APPRECIATE IT.

22
23 **COUNCILMEMBER KNAPP:** I HAVE A VERY SIMPLE QUESTION. DO YOU
24 HAVE ANY OF THESE THAT WERE PRINTED RIGHT? THE PERFORMANCE
25 MEASURES?

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1

2 **BERYL FEINBERG:** YOU KNOW, I DID HEAR ABOUT THAT. [OVERLAPPING
3 VOICES]

4

5 **COUNCILMEMBER KNAPP:** IT IS A GREAT PROP. IT'S A WONDERFUL PROP,
6 BUT ACTUALLY IT'S A REAL PAIN IN THE BUTT TO READ.

7

8 **BERYL FEINBERG:** [INAUDIBLE] BUT THAT'S WHAT I HAD HEARD.

9

10 **COUNCILMEMBER KNAPP:** YES. YES.

11

12 **BERYL FEINBERG:** [INAUDIBLE] SO I CHECKED WITH JOAN, AND ESSIE,
13 AND LINDA. I WENT RIGHT DOWN THE ROW.

14

15 **COUNCILMEMBER PEREZ:** MR. FARBER, ONE POINT OF CLARIFICATION.
16 WHAT IS TUESDAY'S DEADLINE? MORE SPECIFICALLY, WOULD IT APPLY
17 TO SOMETHING SUCH AS WHAT MR. LEVENTHAL HAS JUST SPOKEN ABOUT?

18

19 **COUNCILMEMBER LEVENTHAL:** REVENUE RELIEF AS WELL AS REVENUE
20 RAISERS?

21

22 **STEVE FARBER:** RIGHT. WELL, WE DO HAVE-- YES, APRIL 19TH IS THE
23 DEADLINE FOR INTRODUCTION OF NEW REVENUE MEASURES. WE DO HAVE
24 ON THE TABLE, OF COURSE, MR. SILVERMAN'S BILL FROM LAST YEAR.
25 I BELIEVE YOURS ALSO, MR. PEREZ. AND MR. FADEN CAN SPEAK TO

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1 THIS BETTER THAN I CAN, BUT I THINK THE THINGS YOU ARE TALKING
2 ABOUT, MR. LEVENTHAL, COULD BE INTEGRATED IN THE WORK ON THOSE
3 BILLS.

4

5 **COUNCILMEMBER LEVENTHAL:** SO NEED NOT BE READY BY TUESDAY?

6

7 **COUNCILMEMBER SILVERMAN:** MORE TO THE POINT THOUGH, IF I RECALL
8 CORRECTLY, WE WERE NOT GOING TO PASS-- WHEN I INTRODUCED THIS
9 CIRCUIT BREAKER EXPANSION LAST YEAR, WE WERE NOT GOING TO PASS
10 IT BY THE END OF THE BUDGET. THE INTENT WAS TO INCORPORATE THE
11 DOLLARS INTO IT, AND THEN PASS THE LEGISLATION LATER. SO I'M
12 NOT AWARE WE HAVE A DEADLINE FOR, QUOTE, TAX RELIEF, IF WE
13 HAVE TO DO IT LEGISLATIVELY. WE NEED THE FISCAL ROOM FOR IT,
14 BUT THE COUNCIL WILL TAKE A VOTE PREDICATED ON A PIECE OF
15 LEGISLATION THAT IT WOULD--

16

17 **MICHAEL FADEN:** ALTHOUGH WITH THE CIRCUIT BREAKER BILL, YOUR
18 BILL, MR. SILVERMAN, IS THE VEHICLE FOR ANY CHANGES IN THE
19 CIRCUIT BREAKER. IT WOULD NEED TO GET PASSED. IT COULD GET
20 PASSED WITH THIS BUDGET. IN ANY CASE, IT WOULD NEED TO BE
21 PASSED BEFORE JULY 1ST TO AFFECT THE NEXT TAX YEAR.

22

23 **COUNCILMEMBER SILVERMAN:** RIGHT.

24

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1 **COUNCILMEMBER LEVENTHAL:** A PROPOSAL THAT IN SOME WAY WOULD BE
2 STRUCTURED TO BENEFIT CERTAIN CLASSES OF HOMEOWNERS COULD THEN
3 BE STRUCTURED AS AN AMENDMENT TO MR. SILVERMAN'S CIRCUIT
4 BREAKER BILL?

5

6 **MICHAEL FADEN:** YES.

7

8 **COUNCILMEMBER LEVENTHAL:** BUT IT'S A PRETTY DIFFERENT PROPOSAL.
9 WOULD IT NOT REQUIRE A DIFFERENT PUBLIC HEARING?

10

11 **MICHAEL FADEN:** WELL, MR. SILVERMAN'S BILL IS BEING RE-HEARD
12 THIS YEAR. LET ME SEE IF I CAN EXPLAIN THIS IN ANY SUCCINCT
13 WAY. BASICALLY, JUST ABOUT THE ONLY TARGETED FORM OF PROPERTY
14 TAX RELIEF AVAILABLE TO THE COUNTY IS THROUGH THE CIRCUIT
15 BREAKER MECHANISM. NOW, WE CAN TALK ABOUT DEFERRAL AND THAT'S
16 A WHOLE DIFFERENT-- THERE ACTUALLY IS A VERY LIMITED DEFERRAL
17 ON THE COUNTY BOOKS NOW, WHICH IS USED ALMOST NEVER OR NEVER,
18 I'M NOT SURE WHICH. WE CAN TALK ABOUT EXPANDING AND BROADENING
19 THAT. THAT IS NOT SUBJECT TO SAME TIMETABLE, ALTHOUGH IT MAY
20 STILL BE--

21

22 **COUNCILMEMBER LEVENTHAL:** DO WE HAVE AUTHORITY, UNDER STATE LAW,
23 TO DO WHAT I'VE ASKED ABOUT?

24

25 **MICHAEL FADEN:** I WILL HAVE TO CHECK ON THAT.

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1

2 **COUNCILMEMBER LEVENTHAL:** OKAY, SO YOU WILL GET BACK TO ME.

3

4 **MICHAEL FADEN:** RIGHT.

5

6 **STEVE FARBER:** I BELIEVE THAT SEPTEMBER 1, MIKE, IS THE
7 DEADLINE FOR RESIDENTS TO APPLY.

8

9 **MICHAEL FADEN:** TO APPLY FOR THE CIRCUIT--

10

11 **STEVE FARBER:** TO APPLY FOR THE CIRCUIT BREAKER FOR FISCAL YEAR
12 '06. SO CLEARLY, WE WOULD HAVE TO GIVE A LOT OF NOTICE,
13 PARTICULARLY IF RULES OF THE GAME HAD CHANGED.

14

15 **MICHAEL FADEN:** WE'D HAVE TO NOTIFY STATE, I THINK IT'S BY JULY
16 1ST, AND THEY WOULD SAY THE EARLIER THE BETTER, IF WE ARE
17 GOING TO DO ANYTHING TO OUR CIRCUIT BREAKER SUPPLEMENT.

18

19 **STEVE FARBER:** IN TERM OF ADVERTISING IT AND LETTING THE
20 COMMUNITY KNOW ABOUT IT.

21

22 **COUNCILMEMBER FLOREEN:** I'M SORRY, I MEANT TO ASK THIS EARLIER.
23 IT IS JUST KIND OF A BOTTOM LINE QUESTION. I'M HOPING THAT
24 THERE IS A SIMPLE ANSWER. ON CIRCLE 56 YOU'VE GOT THE THREE
25 TIERS, WHICH IS THE LINE FROM FISCAL PLAN. RIGHT NOW WHAT WE

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1 ARE LOOKING AT, AS I UNDERSTAND IT, IS A TIER 3 FOR '06. IF WE
2 WERE TO JUST SAY, "FINE, WE'LL ALL GO HOME AND WE'LL APPROVE
3 THE BUDGET," WE'RE AT THE \$62.5 NUMBER, WHICH IS OVER THE
4 CHARTER LIMIT, RIGHT? BOTTOM LEFT-HAND BOX. AND IN THE NEXT
5 COLUMN OVER, DOES THAT MEAN THAT, IF WE WERE TO DO THAT, JUST
6 SAY, "FINE. NO PROBLEM, WE APPROVE THE BUDGET BEFORE US," WE
7 WOULD THEN BUILD OURSELVES INTO A SITUATION WHERE, IN THE NEXT
8 YEAR, WE'D BE LOOKING AT \$140 MILLION OVER THE CHARTER LIMIT?
9 IS THAT WHAT THIS SAYS?

10

11 **STEVE FARBER:** NO. THE COMPARISON THERE, MS. FLOREEN, IS WITH
12 CURRENT RATES. IN OTHER WORDS, IT IS THE CUMULATIVE DIFFERENCE
13 OF THE TWO YEARS FOR CURRENT RATES.

14

15 **COUNCILMEMBER FLOREEN:** IS IT UNDER CURRENT RATES OR IS IT
16 UNDER THE COUNTY EXECUTIVE'S BUDGET, ON THE BOTTOM ONE, IN
17 TIER 3, AFTER '06? I THINK YOUR MEMO SAYS IT ASSUMES THE RATES
18 THAT HE PROPOSES, WHICH WOULD THEN BECOME THE CURRENT RATE,
19 WHICH IS 2 CENTS OFF.

20

21 **STEVE FARBER:** THAT'S RIGHT. ACTUALLY, YOU'RE RIGHT. THAT
22 BECOMES THE NEW BASE.

23

24 **COUNCILMEMBER FLOREEN:** SO IF WE AGREED TO COUNTY EXECUTIVE'S
25 BUDGET FOR , WE ARE AT \$62.5 OVER. IF WE JUST CARRIED THAT

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1 THROUGH WITHOUT ANY ENHANCEMENTS, WE'D BE AT \$140 OVER NEXT
2 YEAR? IS THAT THE CORRECT LINE TO LOOK AT, PROJECTED '07?

3

4 **STEVE FARBER:** YES. I MEAN --

5

6 **COUNCILMEMBER FLOREEN:** I KNOW THERE ARE X NUMBER OF
7 ASSUMPTIONS BUILT IN THERE, BUT IS THAT WHAT WE GET OURSELVES
8 TO?

9

10 **STEVE FARBER:** WHAT IT SIGNIFIES IS THAT, COMPARED TO ADHERING
11 TO CURRENT RATES-- YOU START WITH EXECUTIVE'S PROPOSAL FOR '06,
12 WHICH IS TWO CENTS' REDUCTION.

13

14 **COUNCILMEMBER FLOREEN:** WELL, I KNOW. AND THAT IS THE \$62.5.
15 IT'S IN PARENTHESES.

16

17 **STEVE FARBER:** AND THEN, IF YOU STICK AT THAT RATE--

18

19 **COUNCILMEMBER FLOREEN:** IF YOU STAYED AT THAT RATE, WE'D BE AT
20 \$140.2 OVER.

21

22 **STEVE FARBER:** YES, COMPARED TO CURRENT RATES.

23

24 **COUNCILMEMBER FLOREEN:** COMPARED TO--

25

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1 **STEVE FARBER:** YES.

2

3 **COUNCILMEMBER FLOREEN:** OKAY, AND ONWARD AND UPWARD.

4

5 **STEVE FARBER:** YES AND, AS YOU CAN SEE, IT EXPANDS PRETTY MUCH,
6 NOT EXPONENTIALLY BUT VERY CONSIDERABLY, YEAR BY YEAR COMPARED
7 TO-- IN OTHER WORDS, THE DIFFERENCE BETWEEN THE CHARTER LIMIT
8 AND STAYING AND CURRENT RATES GROWS AND GROWS.

9

10 **COUNCILMEMBER FLOREEN:** OKAY, THANK YOU.

11

12 **COUNCILMEMBER PEREZ:** OKAY, IF THERE ARE NO QUESTIONS, THE
13 COUNCIL IS ADJOURNED. THANK YOU STEVE, AND THANK YOU TO O.M.B.,
14 FOR ALL YOUR GOOD ADVICE AND HELP.